The American Political Science Review

Vol. XV AUGUST, 1921 No. 3

THE EDUCATIONAL FUNCTION OF THE NATIONAL GOVERNMENT

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Education is admittedly a comprehensive and vague term. It may be used to imply all the training which life affords to any individual member of human society. In a narrower and customary sense it has reference to requirements more or less technical which a community makes of its younger members. Whether viewed in its larger or in its narrower meaning it amounts to a process through which the individual progresses toward a more or less useful place in society.

In the phrase "educational function" is included a large group of federal activities which tend directly or indirectly to influence popular intelligence and accordingly help in the establishment of public policy and law. Such activities frequently underlie legal development in one or another direction They account occasionally for the creation of new laws.

Well educated as were most of the framers of the Constitution, it is a notable fact that in the long course of their debates in the Convention of 1787 they gave slight attention to the subject of education. In a few minds of that epoch there was a dim ideal of the probable future necessity of instructing the democracy. But public schools at the time were unsystematized and undeveloped. Research in its modern meaning of scientific investigation

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carried little if any significance. The Constitution, begotten out of a past distinctly fearful of majority rule, was silent on the subject of education, and from that day to this we have been made very familiar with the argument that education should not be considered a matter of concern to the national government.

Lawyers seem to be agreed that such authority as Congress may assume over education must find its warrant in the "general welfare" clause, and that it rests upon these two principles of interpretation: (1) educational undertakings authorized by the Constitution must be calculated to result in benefits fairly diffused; and (2) such undertakings must be only those not within the power or the capacity of the states, of the local authorities, or of private individuals. "The primary responsibility for educational control," remarked commissioner of education Dr. Elmer E. Brown, in 1910, "rests with the several states." Commissioner Philander P. Claxton reiterated the same sentiment in his first annual report of the next year. Education, we are persistently told, should be allowed to remain a function of the states; otherwise, the national government will encroach upon the states to such an extent that little in education will be left for the states to do.

It will be convenient in the first place to reflect briefly upon a few activities of the national government before the Civil War which may be termed educational. Rather more detailed consideration may be given to the increase of such activities during the past sixty years, from 1860 to 1920.

I

The years from 1789 to 1860 constitute essentially the formative period of our national development. The Civil War resulted in the establishment of a unified nation. Although in this formative period the educational function of the government was not generally recognized, it revealed itself in a variety of ways —in activities and modes incidental to normal political and, in particular, to administrative development. That this was at that time the direct result of popular pressure I cannot discover. Furthermore there is no clear indication that Congress was to any

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degree conscious of any pronounced or definite duties in the matter of caring for popular education. That was the concern of the various states. Generally speaking, the function developed in neither a logical nor a consistent fashion: it was exercised by a process of indirection.

The establishment in 1802 of a national military and engineering academy at West Point, and the choice in 1845 by the secretary of the navy (George Bancroft) of Annapolis as the seat of the naval academy, may be passed over with a bare comment: these two institutions founded by the national government were directly in accord with the nation's duty to provide adequate educational facilities for men destined to be prepared to protect the country in case of need on land and sea. Less obvious assertions of phases of the national educational function—destined in the course of years to be highly significant—can be associated with the years 1790, 1807, 1842 and 1846, respectively. I refer to certain provisions in law which account for the beginnings of the census, the patent-office organization, the coast and geodetic survey, the naval observatory, and the Smithsonian Institution. From these various beginnings there arose establishments related in different ways to administration. Several of the resulting organizations were destined rather than designed to afford encouragement to scientific research, and all of them were useful in the solution of problems national in their importance.

In the year 1790 were enacted the first national laws relating to the census and to the proper protection of patents—the latter subject based upon the admitted power of Congress "to promote the progress of science and useful arts." As organizations developed for the purpose of carrying out these laws, such organizations came for the most part at the start under the general supervision of the department of state. At a later time the census passed to the supervision of the department of the interior, and is today lodged in the department of commerce, while the patent office went in 1849 into the department of the interior, where it has ever since remained.

The census of 1790 was a bare enumeration of the population on the basis of which to regulate certain civil and political rights

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of the states. Its extraordinary growth over many decades could have been foreseen by no mortal eye. Its possibilities, indeed, for scientific purposes were only slowly developed, until the statistical genius of General Francis A. Walker, applied to the ninth and tenth censuses in 1870 and 1880 respectively, revealed the national census as capable of becoming one of the scientific wonders of the world. As early as 1810 it took some account of manufactures; next, in 1820, attention was given to agriculture and to non-naturalized foreigners; and in 1840 many facts bearing on popular intelligence—notably on schools of high and low grades—came into the nation's vision through the census returns. Today, with a permanent census organization first established by the law of March 6, 1902, and devised, for greater efficiency and consistency to hold over from decade to decade, the census has expanded into a periodical inventory of national resources, or—as Dr. S. N. D. North has remarked—into "the barometer of national development in every phase and branch—in human beings first, for the quality and character of its citizenship must always remain the most important national asset."

The patent office rose from small beginnings in 1790 to the status of an organized corps of experts qualified to pass upon the utility of thousands of inventions. To say that the patent office has not been the means of aiding education is to overlook its bearing on the progress of scientific and practical research from an early date. Taken in hand at the outset by three cabinet officers, a comparatively slender organization developed chiefly under the auspices of the department of state down to 1849, when by law it was transferred to the department of the interior. Here it has since functioned. Its vital formation really was revealed after 1802, the year in which Dr. William Thornton was assigned to the duty of supervising its growing functions. Thornton was a man highly trained for scientific pursuits in his day, having been a student at Edinburgh, London, and Paris. He bore the title of superintendent by courtesy, a title which was fixed in law after his death by a statute of April, 1830. Six years later, in July, 1836, the present office of commissioner of patents was established.

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Henry L. Ellsworth of Connecticut, first commissioner, was the second remarkable figure in the organization. Soon after 1836 he raised the bureau to a place of importance to the intelligent farmers of the entire country, for a large proportion of patents in those days involved improvements in implements of agriculture and in processes for tilling the soil. From what John Quincy Adams termed "a mere gim-crack shop" the bureau, largely through Ellsworth's ability, attained to the position of a useful public establishment. "The Patent Office," remarked a writer in 1846, "is now regarded as the general head and representative of the useful arts and the industrial interests of the country." From it gradually there was developed the later department of agriculture of 1862.

The coast and geodetic survey, today a well-known bureau in the department of commerce, goes back for its origin to the year 1807 and the influence in scientific directions of Thomas Jefferson. It was instituted primarily for the convenience of commerce and somewhat incidentally for the protection of life and the national defence. Its steady development in the widening of our knowledge of coast boundaries and waterways—particularly with respect to the Great Lakes and Alaskan waters—has made it of great significance as revealing in practical ways the educational function of the national government. No less significant in the long run, but within the realm nearer pure science, was the founding in Washington in 1842 of the naval observatory. Aided at the time of its origin by the clear vision and persistent legislative effort of John Quincy Adams, it came into being as a result of the expanding needs of the navy depot of charts and instruments. It quickly developed functions that were directed toward determining the positions of the sun, the moon, the planets, and the stars; its experts tested chronometers and helped to standardize time over the country; and very recently it has had much to do with promoting our knowledge of the new science of aeronautics. Such names as Matthew F. Maury and Simon Newcomb attest sufficiently well the bearings of the work of the naval observatory upon scientific discovery.

When in 1846 Congress provided for the permanent organization of the Smithsonian Institution—the outcome of a large

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bequest to the government from the English chemist, James Smithson—it entered upon a design "for the increase and diffusion of knowledge among men." The scientific work of the institution, supported since its origin in large part by national appropriations, has been world-wide in its educational influence. Its publications constitute a monument not merely to its founder, but to such men in Congress as have from time to time aided in its support. They are today to be found in all well-equipped libraries.

Another matter within this period, which throws light on the relations of the national government to a limited number of the states in respect to education, should not be overlooked, the policy of land grants first authorized by Congress in 1802, when Ohio was admitted into the Union. Although the policy was somewhat accidental in origin, it reflected an ideal as to the proper disposition of parts of the public domain which can be traced directly to the Ordinance of 1787. Briefly stated, it was a plan authorizing the reservation of the sixteenth section in every township for the support of the common schools, and of two townships of land for the purpose of endowing in the state a higher institution of learning. It had no application to any of the sixteen older states admitted prior to 1802, but the plan was thereafter taken advantage of by all the incoming states. No restrictions were placed upon the states in the matter. Indeed no provision was made by the national government for any sort of adequate administrative machinery. The expenditure of funds derived from the sale of reserved lands was left to the disposition of the states, unsafeguarded by proper restrictions. Although somewhat casual in its origin and based upon an ill-defined ideal, the policy has been frequently referred to in later years as a precedent for one sort of national aid to education—that derived from the sale of the public lands.

II

Scientific research under government auspices chiefly for the solution of problems of an administrative and political sort, it will be seen, had been well established by 1860. Almost unwittingly a phase of the educational activity of the national govern-

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ment has brought results in a variety of directions. Already proved to be essential to progress, such activity was to increase enormously in the years ahead, until today one is safe in asserting that the national government is maintaining research throughout the country to an extent not equaled elsewhere by any two governments. Millions of money are thus annually expended. Without this record our existence as in many respects the country of largest prosperity among civilized nations could not be explained, for the test of a nation's greatness lies not so much in its resources as in the proper or scientific utilization of them.

By 1860, popular education, on the other hand, had drifted —usually ahead, it is true—but with results varying in accordance with state regulations and laws. From a low ebb of efficiency in 1820, Horace Mann by his genius as a thinker and organizer of popular education had built up the Massachusetts school system. He was a figure large enough in caliber to have succeeded John Quincy Adams in 1848 in the national House of Representatives; and at a later time, carrying his ideals into the Middle West, he came to be considered widely as quite the most alert-minded and influential force on popular education in the country. Dying in 1859, he left behind a younger disciple in the person of Henry Barnard of Connecticut. Today Horace Mann, Henry Barnard, and William Torrey Harris can easily be ranked together as having done yeoman service in the work of establishing the widespread American conviction of the incontestable value to a democracy of popular education.

Although the entire nation was rapidly awakening by 1860 to the necessity of unification in the school systems of the different states—a point of view then appreciated by many individuals and actively promoted by means of much organized effort—the educational function of the national government had not been directly involved in aid of popular education with a view toward the solution of some of its perplexing problems. Its educational function had been exercised heretofore in modes limited by, or incidental to, the growth of administration. To many intelligent citizens in 1860 it seemed high time that this function should be extended in scope, deepened, and brought into direct relation to the state systems of public instruction and schools.

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III

As we look from 1860 to the present time—across the disorders of a civil war pregnant with domestic consequences, across the following fifty years of comparative internal quiet (a period characterized by amazing industrial prosperity and by social advancement in so many ways), and onward over a second term of national strain and confusion complicated by foreign conditions during which as never before the intellectual and material resources of the whole nation were drawn upon—we may discover at least three conspicuous measures of national consequence which bear directly on our theme. These three measures, to some extent the mature expression of circumstances and tendencies not easy to trace, were all brought about by intelligently directed popular pressure. They are the so-called Morrill acts of 1862 and 1890, the act establishing in 1867 the bureau of education in the interior department, and the law of February 23, 1917, which brought into existence the federal board for vocational education.

These three measures mark what may be termed the high points in legislation illustrative of the process whereby the educational function of the general government has been extended and intensified during the past sixty years. The two Morrill acts should be considered together, for the second act was merely the amplification of a principle established by the first act of 1862. The first act applied to the states, while the second involved the territories and accordingly resulted in a measure in educational history applicable throughout the country. In line with the two Morrill acts are numerous other measures, such as the so-called Hatch Act of 1887, the Nelson amendment of 1907, and the Smith-Towner Act of 1914. These were all concerned, directly or indirectly, with colleges chiefly designed to promote agriculture and the mechanic arts—in brief, with institutions devoted to higher education. When the federal board for vocational education was established in 1917, the educational function of the government was enlarged to the point of seeking to give aid in secondary education. The rather anomalous position occupied by the bureau of education since 1867 will be considered near the close of this paper.

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IV

The first Morrill Act of July 2, 1862, came into effect after many years of effort on the part of farmers grouped into local or national organizations largely for the purpose of obtaining from the national government aid for educational and other enterprises deemed essential to rural welfare. It followed by some six weeks the law which established the department of agriculture—a law approved by President Lincoln on May 15, 1862. It was to apply to the states alone so soon as the various states accepted within time limits its provisions.

For every senator and representative apportioned to the several states in accordance with the figures of the census of 1860 the act granted 30,000 acres of public land. Land thus acquired could be sold, and the money derived from the sales was to be devoted to the establishment or expansion of colleges in all the states which accepted the terms of the act. State colleges supported by these means were to be designed especially to promote all branches of learning relating to agriculture and the mechanic arts. In the curriculum there was to be included a course in military tactics. No portion of the funds could be applied to the purchase, erection, or repair of buildings. The act was not of universal application, for it did not apply to the territories. The secretary of the interior was, it may be observed, the single national administrative official mentioned in the text of the act.

While the act expressly left to the several state legislatures the right to prescribe courses of study outside the range of those concerned with agricultural science and practical pursuits, it appeared to involve the national government in educational matters in a somewhat directive fashion. Certainly it was a notably clear expression in national law of a revulsion in popular feeling against traditional or classical modes of training in higher institutions of learning. Its object was to encourage state effort in the direction of practical studies. In fact it marks the early phase of a tendency characterized today as vocational education.

The agricultural college movement developed slowly. It quickened markedly so soon as agricultural experiment stations were established, for these stations supplied trained experts

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and many excellent teachers. The second Morrill Act increased the annual endowments to colleges through a succession of years, prescribed somewhat more definitely the nature of the studies and enlarged the scope of the original act's provisions by extending them to the territories. Thus, through national legislation, the movement became of universal significance. By 1890 three administrative officials were in one way or another involved in the cause—the secretary of the interior, the secretary of agriculture, and the secretary of the treasury.

V

The Vocational Education Act of 1917 was the outcome of tendencies that go back into the past for more than a generation. It went into effect shortly before the United States entered into the world war, but it was in no sense a war measure. In various ways it reflected sporadic efforts on the part of the states quite as far back as the eighties to obtain government aid for popular or secondary education. It developed directly out of the work of a presidential commission appointed in 1913 to devise a plan through which, by means of a gradual increase of national aid in the shape of money appropriations, all the states might be assisted in developing and maintaining systems of schools designed to encourage young students in equipping themselves for practical pursuits in agriculture, trade, commerce, and home economics. The commission printed a report in 1914. With the details of the act of 1917—a long and carefully drafted measure—we need not concern ourselves. Its larger features should be noted.

1. The act creates an administrative board known as the federal board for vocational education. This board is composed of three heads of departments (the secretaries of agriculture, of commerce, and of labor), the commissioner of education, and three citizens chosen by the President who are known to be experts in regard to problems in the three respective fields of agriculture, manufactures, and labor—seven members in all who are bound to see that the provisions of the law are carried out.

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2. The act provides for the appropriation of national funds annually over a series of years, such funds to be progressively increased by arbitrary amounts until 1926, after which they are to be indefinitely continued at a fixed figure. The appropriations thus established by the organic act are to be distributed to the states in accordance with a certain ratio for the purpose of stimulating vocational education throughout the Union. However, the act is so formulated that only on condition that the states themselves make appropriations can national funds go to them. In brief, the law was designed to allocate national aid in proportion to local aid.

3. The federal board works through the state boards which—for the proper administration of the act—all the states agreed to create. This feature necessarily enforces a degree of consistency in secondary school administrative machinery that has been heretofore unknown.

4. The act is based upon the usual and rather recent definition of vocational education as that form of education which has for its "controlling purpose" the giving to persons over fourteen years of age secondary grade training definitely designed to increase their efficiency in a variety of useful employments of a non-professional kind—such employments as are associated with trade, agriculture, commerce and commercial pursuits, and callings requiring a knowledge of home economics. It marks the mode by which the national government has been induced, at least for a period, to make its educational function to some extent potent within the field of secondary education. The appropriations are now being used in coöperation with all the states to train teachers, supervisors, and directors of vocational subjects; to the paying of salaries; and in other ways that are concerned with this reconstructive and extensive educational scheme. Inevitably the federal vocational board is brought into close touch, through the various state boards, with many vital aspects of the vocational phase of the educational situation throughout the land.

How far the vocational educational plan here briefly outlined will be successful remains a problem for the future to decide.

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But two conclusions appear obvious: the plan has brought the national government into a position of dominance in which it is likely to exercise directive control—something far beyond mere influence or guidance in the realm of popular education; and it has at length raised the head of the bureau of education outside and above the narrow and rather barren range of the small statistical office first established in 1867.

VI

The movement for a national bureau or department of education can be easily traced from 1849, the year in which the department of the interior was established. But quite twenty years before that there were to be found a few scattered suggestions regarding the desirability of some such organized office that might look after the educational needs of the country. After 1849 the movement was merely an aspect of the awakening of a people conscious of grave local and general educational defects—defects that were especially conspicuous in the southern and the newer western states. According to the returns of the census, illiteracy by 1860 was increasing rapidly. After the Civil War, in 1867, Congress was persuaded, somewhat reluctantly, to make provision for a department or—as it was promptly altered in title—a bureau of education. It was lodged in the department of the interior where it has ever since occupied a humble place.

The objects of the bureau were these: the collection and study of materials bearing on the conditions and progress of education; the diffusion of information thus acquired; and the promotion "otherwise" of the cause of education. The bureau was placed in the charge of a commissioner whose term of service was left undefined. From that day to this annual appropriations for this bureau, although gradually increasing, have been notoriously small.

Such influence as the bureau of education has exerted on popular education has depended upon the varying abilities of six commissioners enforced by insignificantly small groups of specialists in education. Besides upwards of fifty annual reports

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from the six successive commissioners, the bureau has assembled since 1867 a mass of more or less informative lore and educational statistics in the shape of reports, bulletins, and studies. Nevertheless, the outstanding impression left upon one willing to examine the printed results of its work is this: the bureau of education has been chiefly a static rather than a dynamic organization. One must ask whether it has been a center of vital importance to the teaching profession—a profession today represented by about 700,000 members whose chief business it is to aid in the work of training more than 22,000,000 American boys and girls? Has it been vitally related to other government organizations which for generations have been promoting scientific research? The agricultural college movement—essentially a phase of higher education—was started and took shape before the bureau of education was established. It is true that at a later stage the commissioner of education was charged with the administration of the endowment fund for the support of colleges of agriculture and the mechanic arts, and with the supervision of education in Alaska. Moreover, very recently he has gained a modicum of recognition in the administration of secondary vocational education as a member of the federal vocational board.

Anyone who will today read over the six annual reports of the late secretary of the interior, Mr. Franklin K. Lane, which cover the years 1913 to 1919—commentaries on Mr. Lane's interest in the broad field of popular education—must conclude that Mr. Lane was puzzled to account for the rather anomalous administrative position occupied by the bureau of education as at present constituted. Impressed by the fact that this bureau is lacking in the equipment necessary to accomplish any great work for the schools, the teachers, and the children of the country, Mr. Lane was inclined to wonder if the bureau of education should not be abolished. There is in the course of his thought no comfort for those who wish to see established a national department of education in charge of a cabinet officer. While he developed nothing in the nature of a large or constructive plan, he laid stress upon what he termed a bureau of educational

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methods and standards in which would be gathered the ripe fruit of all educational experiments upon which the schools of the country might draw—a sort of national clearing-house in educational affairs. Perhaps his most striking conclusion, however, amounted to the formulation of a theory of the place of the national government in education—a theory which, whether ultimately accepted or not, marks a comparatively recent and advanced stage of thought. Like so many of us, Mr. Lane was shocked by the figures given out by the surgeon general of the army early in 1918—that of 1,552,256 men between the ages of twenty-one and thirty-one examined for entrance to the army, 386,196 of these, coming from twenty-eight camps, were unable to read, understand newspapers, or write letters home. He said:

"What argument that could be advanced could be more persuasive that education deserves and must have the consideration of the central government? Make the same kind of an offer to the states for the education of their illiterates that we make to them for the construction of roads and in five years there would be few, if any, who could not read and write. . . . If once we realize that education is not solely a state matter but a national concern, the way is open. . . . ."

VII

We have reached a new stage in administrative development which—so far as education is concerned—is characterized by a widespread desire to broaden, deepen, and intensify the educational function of the general government. We have passed from the conception of the use of national funds for indefinite educational purposes to purposes carefully defined and set forth in substantive law. But the past is still full of significance if we are to advance in the proper way into the hidden future. There should be on the part of legislators a clearer understanding of just what the general government has thus far accomplished in the way of encouraging research. Care should be shown in the further creation of machinery by means of which the educational function of the national government, broadly conceived

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and today enormously significant, may be more intimately related to the states. Citizens should be led to realize that popular education, important as it is in a democracy, is but a phase in the complicated processes making for national enlightenment. To a large extent progress in enlightenment no doubt depends upon intelligent and well-trained schoolmasters and schoolmistresses. It springs, however, from innumerable sources, many of which are often ignored by so-called educational experts. Not infrequently it comes from tiny efforts on the part of individual experimenters and thinkers; it is molded and shaped by group efforts in government, state university, and privately endowed laboratories devoted to study and research; it depends for its vitality upon our great museums and libraries scattered throughout the country. Can such educational activities ever be confined to the limits of any executive department that could conceivably be organized?

The old theory that education should be largely the concern of the various states cannot be overlooked. In principle it would appear still to be sound, for it will restrain the general government from going too far in the direction of the policy of beneficent despotism. It will act by way of restraint and hold the national government to a middle course—that of lending aid in a critical epoch, and of withdrawing such aid so soon as the states themselves shall have proved themselves able to care for local educational defects and weaknesses.

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PENSIONS FOR PUBLIC EMPLOYEES

MILTON CONOVER

During 1918–20 twenty-four states enacted some form of pension legislation for public officials and employees. Congress established a retirement system for civil service employees. Various Canadian provinces, several British colonial governments, and a few European states legislated in favor of civil pensions.

In the United States this recent activity is the culmination of a half century of agitation, experimentation and controversy in the matter of civil pensions, whether national, state, county or municipal. Private pensions in various American industries have doubtless favorably influenced the development of government pensions.

This development has resulted in the use of many conflicting definitions of the term "pension." Due to some aversion to that word, many confusing substitute terms have been used such as: retirement system, vocational insurance, deferred pay, indefinite leave of absence, retiring salary, graduated bonus, gratuity, annuity, superannuation allowance, service relief, old age assurance, provident fund, actuarial equivalent, and public officers' guarantee fund. As used in this article the term civil pension is intended to imply a regular allowance granted to a person for that person's maintenance or the maintenance of one or more persons dependent on the pensioner, that allowance being usually paid in consideration of the pensioner's meritorious services to the grantee; but it may be granted as a deferred wage or salary, as an annuity or as a form of regularly paid charity without reference to any consideration of gratuity, of wages, or of deferred dividends. It is a stated payment made by a civil government to an employee, to a former employee, or to a subject of that government without a corresponding immediate service.

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Civil Pension Commissions. In order to study the problem of a sound pension system, six states have recently created commissions. New York City has made a searching investigation of her pension system. The first report was made in 1913. This showed that the pension funds for the police, firemen, and teachers were bankrupt. They totaled a deficit of $154,500,000. In 1916 the deficit was $202,775,568.[1] During 1916-18, the mayor's commission on pensions made a report in three parts, giving a descriptive analysis of New York's nine pension plans.[2] This report emphasized the "condition of inequality in pension powers and extravagance of pension policies," which had resulted from haphazard and ill-considered legislation which put into operation those systems and concluded that "the most ineffective and expensive way of dealing with superannuated and incapacitated employees is to place dependence on enforced reductions and dismissals of the incapacitated, on the basis of efficiency ratings or for other causes, rather than on the basis of a sound pension system."[3] Consequently the subsequent 1918 pension report of the same commission proposed a new retirement system, entrance into which would be compulsory on future employees of the city. It is improbable that a more scientific system of civil service retirement had ever been devised in America. The actuarial basis for the financial structure of the new plan was outlined in detail by professional actuaries. A retirement plan was proposed "to cover all entrants into the municipal service with pensions for optional participation by present employees of the City of New York."

These reports published by the New York commission analyzed the pension systems of the city, indicated the inequalities in the various groups of employees, furnished computations of rates of contributions to be made by the employees, and outlined the principles upon which a new pension system should be constructed.

In 1919, the New York legislature created a state pension commission of seven members. They reported on March 30,

[1] Report of the Pension Funds of the City of New York, pt. 3, p. 11.
[2] *Ibid.*, pt. 2, p. 3.
[3] *Ibid.*, p. 1.

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1920, and proposed a plan which was partially applied in the acts of the 1920 legislature. Like the New York City commission, they concluded that "to attain the highest level of efficiency, the governmental service of the state requires a system for the retirement of superannuated and disabled employees."[4] The commission outlined principles which they believed should be followed in all pension legislation, advocated "contributions by the government payable at the time when the service is rendered on account of which the retirement benefits will be payable," and insisted that there be created no new pension systems "calling for public support where definite calculations are not available as to the costs involved and where proper provision to cover the liabilities as they accrue is not made."[5]

Two of the most important reports yet made in this country are those of the Illinois pension laws commissions, created in 1915 and 1917. The first commission made a detailed report in 1917, analyzing the experience within the state, and indicating that a number of the pension funds were insolvent.[6] The commission made certain concrete recommendations, but was unable to complete all the investigations thought necessary, or to draft its recommendations in the form of proposed legislation. For this reason a second commission was created, and upon it were appointed three of the four members of the previous commission. The same actuarial staff served both commissions. The second commission reported in 1919, and submitted proposed legislation for the development of a pension policy as to all systems existing in the state or its municipalities. Such improvements as have been made in Illinois pension legislation are primarily the result of the investigations of these two commissions.

New Jersey created a pension and retirement fund commission in 1918 to investigate the problem of state and local pensions.[7] This commission consisted of five members of the legislature and was assisted by the New Jersey Bureau of State Research. Six-

[4] Report of the New York Commission on Pensions (1920).
[5] *Ibid.*
[6] See *American Political Science Review*, Vol. 12, p. 267.
[7] New Jersey, Joint Resolution No. 3 (1918).

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teen bulletins showing the need of a state pension system have been published, and a proposed scheme drafted. Governor Edge recommended in 1918 the standardization and coördination of existing systems and insisted on absolute solvency.

The Pennsylvania commission on old age pensions reported in March, 1919. It gave a thorough diagnosis of indigency in the state and an analytic description of old age pension methods in foreign countries but did not recommend much that is immediately constructive.

Wisconsin provided in 1919 for the organization of a pension laws commission in every city of the first class to investigate the operation of pension laws in such a city and of similar laws in other states and countries.[8]

The Milwaukee commission reported on November 15, 1920, with a proposal for four funds: policemen's, firemen's, teachers', and general municipal employees' annuity, and benefit funds; each to be managed by its own board of trustees and supervised by a commission of three members appointed by the manager. The funds were proposed to be supplied by a deduction of three per cent from the employees' salaries, and a public contribution of from six per cent to nine per cent of the amount of the salary of the employee. The commission recommended that a pension system should be established on a reserve basis, that specified funds to be appropriated each year be calculated by an actuary and the money be raised by direct taxation, that the costs be divided between the government and participants, and that the contribution of the employee be made on a percentage basis of his salary.[9]

The most recent state pension report was made in January 1921, by the Massachusetts legislature joint special committee on pensions. This committee was authorized "to consider the entire questions of pensions and retirement allowances provided under existing law for officials and employees of the Commonwealth and of the counties, cities, and towns."[10] The committee re-

[8] Wisconsin *Acts* (1919), ch. 514.

[9] Report of the Milwaukee Pension Laws Commission (1920).

[10] Report of the Massachusetts Legislative Joint Special Committee on Pensions (1921), p. 9.

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ported that on August 1, 1920, there were in Massachusetts 2950 pensioners at an annual cost of $1,535,647.32. This included all state and local pensioners.[11] They declared that the present pension laws "are lacking in system, and present the most glaring inequalities." Some employees are wholly without pensions. Others have pensions but contribute nothing. Some contribute one-half the real cost of their pensions. Some are compelled to retire, others are not. The age of retirement and the necessary length of service to qualify for a pension varies in the various branches of the civil service. Much special legislation is enacted for such employees as scrub women, laborers, police matrons, chauffeurs, certain electricians, signalmen, janitors, clerks and widows of employees. "This special legislation is generally passed, not on recommendation of the employing department in case of state employees or on recommendation of the governing body of the employing county, city, town, or district in the case of municipal employees, but at the solicitation and on the *ex parte* statements of the persons who will be benefited. By the frequent and indiscriminate passage of these special laws, a tempting invitation is held out to all to seek special favors by legislation. Furthermore, the passage of these special laws is productive of grave inequalities and discriminations, and consequent discontent."[12] The morale is thereby lowered.

The committee agreed that the contributions to a pension system should be on "the actuarial reserve plan" rather than on the cash disbursement plan. They endorsed the conclusion of Paul Studensky that "systems of the cash disbursement type are almost invariably unsound,"[13] and approved the declaration of Lewis Meriam that "Under the actuarial reserve plan the taxpayers who receive the service pay all the obligation incurred by the government in respect to that service, whereas under the assessment or cash disbursement plan the taxpayers at the time the service is rendered pay the immediate wage only, and leave for

[11] Report of the Massachusetts Legislative Joint Special Committee on Pedsions (1921), p. 9.

[12] *Ibid.*, p. 51.

[13] Studensky, *Teachers' Pension Systems in the United States*, p. 136.

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some future taxpayer the payment of the prospective benefits which have accrued in respect to that service."[14]

The Massachusetts commission declared that "the liabilities which accrue for services rendered after a pension law goes into effect should be provided for by a reserve fund, so that the burden will be substantially equalized, and will be borne by the taxpayers who receive the benefit of the service on which the pensions are based,"[15] and that "all future pension laws should be based on the contributory plan."[16]

Upon the principles of this report, the Massachusetts committee drafted four proposed acts "to more nearly equalize the annual contribution to be made by the Commonwealth to the retirement system for teachers" and state employees. It is proposed to determine, at the time that the annual budget is under consideration, the exact amount needed for pensions. This will be determined by "basing the appropriations on the retirements of the previous year." In this way the system may continue solvent.

Some of the principles involved in these reports had already been operative in previous legislation in other states, the greater part of which deals with municipal pensions.

Pensions for Municipal Employees. Five states have recently authorized pension systems for city employees. Such authorization is usually to take effect upon its acceptance by the governing officials of the municipalities or by a majority of the voters at a special election. The pension funds are usually administered by a board of trustees consisting of certain city officials or by a special commissioner who has the authority to appoint subordinate administrators, actuaries, and physicians. Approximately the average age of pension retirement is sixty years, the average necessary period of service is twenty years, and the pension is generally equal to one-half of the pensioner's salary at the time of retirement.

[14] Meriam, *Principles governing the Retirement of Public Employees*, pp. 325–326.

[15] Report of the Massachusetts Legislative Joint Special Committee on Pensions (1921), p. 43.

[16] *Ibid.*, p. 46.

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Minnesota and New York adopted the most comprehensively organized plans in 1919. One of the Minnesota systems benefits the employees in the classified service of departments of health in cities of fifty thousand population which operate under a home rule charter.

The sources of the Minnesota pension funds are specifically indicated: "First, dues of its members and from the gifts of real estate or personal property rents, or money or other sources; second, an amount or sum equal to one-twentieth of one mill shall be annually assessed, levied and collected by the proper officers of such city where a health relief association exists, upon each dollar of taxable property in such city as appears on the tax records of such city."[17]

Such were the provisions for pensions in cities under home-rule government. The day after it was enacted, another law was passed to benefit the Minnesota cities which do not have home rule charters. It applies to cities having a population of fifty thousand and it benefits every employee of the city who is not elective. The age of retirement is established by a retirement board. Three classes of employees are to be pensioned: the contributory, non-contributory, and the exemption classes. The contributory class includes all of those employees who are not in the other two classes and all future entrants into the city civil service. The non-contributory class consists of all employees whose salaries or wages do not exceed $750 a year. This includes all of the common laborers. The exemption class includes all persons serving in elective positions, on executive boards, non-resident employees, alien employees, pupil nurses, interns and staff physicians employed at the city hospitals, and all "employees who are members of, or who are eligible to become members of an organization or association on behalf of which a tax is levied against the city for the purpose of paying retiring allowances to disabled or superannuated employees." The administrative details will be operated on much the same plan as are the details of a private endowment insurance plan. The retirement board consists of five members who possess

[17] Minnesota *Session Laws* (1919), ch. 430, p. 504.

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the powers of a corporation. Refunds of pension payments are equitably provided for those who do not qualify for a retirement pension.

Somewhat different from the Minnesota plan is the municipal pension plan of New York. The 1919 New York act authorizes that pensions be paid out of the amount which the board of aldermen and the board of estimate and apportionment are empowered "to appropriate and provide in the annual budgets and tax levies or by the issues of special bonds for the payment" of the annuities.[18] Prior to the enactment of the Eighteenth Amendment to the Constitution of the United States, pension funds had been obtained from excise moneys or liquor taxes that belonged to the city.

In 1920, these New York acts were supplemented by provision "for a retirement system for officers and employees whose compensation in whole or in part is payable out of the treasury of the City of New York."[19] Managed by the board of estimate and apportionment this New York City Employees Retirement System became operative in October, 1920. The membership is inclusive, admitting laborers and both competitive and non-competitive employees. It also admits those employed in service "other than civil service, whether appointive or elective, as a paid official clerk or employee of the state of New York and of any municipality, county or part thereof and service for any public utility the ownership and operation of which has been taken over by the city. "When transferring to other service groups, the total time will be computed. The system is operated in detail on an actuarial basis and the age of retirement varies according to the nature of the occupation.

Five distinct pension funds are maintained by New York. First, the annuity savings fund. This is one in which are "accumulated deductions from the compensation of members to provide for their annuities, and their withdrawal allowances." Second, the "annuity reserve fund," from which are paid "all annuities and all benefits in lieu of annuities." Third, "the contingent reserve

[18] New York *Session Laws* (1919), pp. 1161, 1505.
[19] New York *Session Laws* (1920), pp. 427, 1056.

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fund," in which are accumulated the reserves necessary to pay all pensions and all death benefits "allowable by the City of New York on account of the city service of members to whom prior service is not allowable." Fourth, "the qension reserve fund" is for the payments of "all benefits in lieu of pensions, allowable by the City of New York on account of the city service of members to whom prior service is not allowable." Fifth, the pension fund. This is for the payment of pensions for service to "members to whom prior service is allowable." These pensions do not apply to persons who are entitled to serve in the police, firemen or teachers' pension funds. Special legislation has empowered certain other New York cities to institute civil pension systems.

New Jersey provided in 1919 for pensions for overseers of the poor in cities of the first class. Financial provisions for these pensions are to "be made in the appropriation tax levy for the department of the public service from which such person shall be retired, and no pension shall close or become invalidated by reason of the abolition of the department or office in which he served."[20] In 1920 an amendment to a 1913 act authorized the maintenance of pension funds for employees of local boards of health in cities by compulsory deductions from salaries and by contributions from the state. Another act of 1920 makes it lawful for the appointing agency of municipal recorders to provide for the adequate retirement of such officers.

Illinois revised in 1919 some of her municipal pension laws. Employees of houses of correction who are contributors to the pension fund may retire after twenty years of service irrespective of age with a stipend of six hundred dollars a year.[21] Pensions for park employees received additional modification. City taxes to subsidize such pensions were authorized. The rate of taxation was allowed to be raised as high as two-thirds of a mill on the dollar levied on the taxable property within the district of the park in which the pensionee had been employed. All annuities are to be "computed according to the American Experience Table of Mortality at four per cent interest."

[20] New Jersey *Session Laws* (1919), ch. 109, p. 260.
[21] Illinois *Session Laws* (1919), p. 700.

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Massachusetts provided in 1920 that the pension provisions for laborers in the city of Boston "shall include firemen, inspectors, mechanics, drawtenders, assistant drawtenders and storekeepers."[22] No such laborer shall be pensioned in excess of four hundred dollars a year. Employees in correctional institutions and county training schools were allowed the same pension that had previously been extended to prison employees.

Oregon passed an act in 1919 to exempt from attachment and execution all civil pensions paid by the national, state, or local governments, and all private civil pensions paid by any "person, partnership, association or corporation."[23] Many other states inserted such a clause in their regular pension laws.

Firemen's Pensions. Much of the state legislation for municipal pensions in 1918–20 was for the benefit of firemen and policemen. Some acts were for the former or the latter especially. Other acts include both types of employees in the same piece of legislation. Three different systems were established: the straight plan, the contributory, and the part-contributory system.

Of the eastern states, Maine and New York made special authorization to certain cities to establish firemen's pensions. New Jersey revised her former laws in 1920 and provided that when the salary deductions, municipal taxes for pensions, fines, and donations are insufficient for the maintenance of the funds, the common council may make an additional levy on the city.[24] Massachusetts enacted that pensioned firemen may be called into temporary service in case of an emergency and receive in lieu of the pension, full pay for such service.[25]

Kentucky authorized in 1920 a part-contributory system in cities of the second class similar to those of the cities of the first class.[26] The funds are placed under the exclusive control of boards of trustees. Judicial power is vested in those boards and their decisions "shall be final and conclusive, and not subject to revision or rehearsal," except by such boards.

[22] Massachusetts *Session Laws* (1920), ch. 79, p. 131.
[23] Oregon *Acts* (1919), ch. 277, p. 453.
[24] New Jersey *Session Laws* (1920), ch. 160, p. 325.
[25] Massachusetts *Session Laws* (1920), ch. 60, p. 39.
[26] Kentucky *Acts* (1920), ch. 28, p. 110.

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Oklahoma modified the judicial power of the pension boards in 1919 by providing that persons aggrieved by any decision in regard to pension claim "may appeal from such decision to the District Court of the County"[27] in which the city is located.

Missouri[28] and Kansas[29] in 1919 authorized cities to levy taxes for the support of firemen's pensions. Texas created on optional contributory plan to include fire alarm operators and policemen in cities of ten thousand population.

The legislatures of the northwestern states were particularly active in 1919 in the matter of firemen's pensions. Illinois amended the act of 1887 so that firemen may retire on half pay after twenty, instead of twenty-five,[30] years of service. Minnesota extended police and firemen provisions to officers of the telegraph, signal, and alarm services,[31] and provided that the time that a fireman served in the army or navy during the great War "shall be considered as a part and portion of his active duty in such fire department." Utah instituted a straight payment pension plan, the funds for which are procured from taxes that are collected upon the fire insurance premiums.[32] Montana made it unlawful for any member of a fire department relief association to receive pension benefits "and, at the same time, for the same casualty, an allowance under the Montana Workmen's Compensation Act."[33] Washington established a part-contributory system, the funds for which are to be procured from fees, gifts, instruments, taxes and firemen's contributions.[34]

Policemen's Pensions. The pension legislation for policemen during 1919–20 was similar in character to that enacted for firemen. Lowering the age of retirement, increasing the sums of the pensions, and the rate of taxes to be levied for pensions was effected in Connecticut,[35] Minnesota,[36] and California.[37] Wis-

[27] Oklahoma *Session Laws* (1919), ch. 1, p. 1.
[28] Missouri *Session Laws* (1919), p. 582.
[29] Kansas *Acts* (1919), ch. 116, p. 161.
[30] Illinois *Session Laws* (1919), p. 743.
[31] Minnesota *Session Laws* (1919), ch. 68, p. 68.
[32] Utah *Session Laws* (1919), ch. 45, p. 108.
[33] Montana *Session Laws* (1919), ch. 66, p. 127.
[34] Washington *Session Laws* (1919), ch. 196, p. 668.
[35] Connecticut *Acts* (1919), ch. 277, pp. 29–48.
[36] Minnesota *Session Laws* (1919), ch. 152.
[37] California *Acts* (1919), p. 101.

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consin authorized common councils to appropriate money to the pension funds to take the place of moneys which had formerly been paid into the pension funds from fees or retail liquor licenses.[38] Various employees who are auxiliary to the police departments, such as assistant matrons, chauffeurs, secretaries, marshals and detectives are included in pension provisions in Massachusetts,[39] Maryland,[40] and Iowa.[41]

Pensions for County Employees. Except on the Atlantic and the Pacific coasts little progress was made during 1918–20 in the matter of pensions for county employees. California provided a comprehensive act authorizing counties to establish a retirement system for the payment of annuities, or the payment of total sums in lieu of annuities.[42] This pension system is part-contributory and the contributing employees include both the appointive officers and the other county employees. All non-elective employees of the county who accept the act must become members of the pension association. When a member leaves the service of the county for any reason other than permanent disability before regular retirement, he or his legal representatives will be refunded the contributions with interest. "Mortality and annuity tables based upon the rate and interest" shall be presented by the insurance commissioner.

In contrast to this carefully applied California system, Oregon passed the inevitable special pension act.[43] This was to authorize Multnomah County to grant a special pension to an employee of the county court house who had served tweny-eight years.

On the Atlantic coast, county pensions have been developed in those states where the population is most congested. New York empowered King's County to extend pensions to clerks, stenographers, interpreters, detectives, jury wardens, probation officers, messengers and attendants.[44] Pennsylvania provided

[38] Wisconsin *Acts* (1919), ch. 262, p. 284.
[39] Massachusetts *Acts* (1919), ch. 115, p. 78.
[40] Maryland *Session Laws* (1920), ch. 69, p. 130.
[41] Iowa *Session Laws* (1919), ch. 344, p. 447.
[42] California *Acts* (1919), ch. 373, p. 782.
[43] Oregon *Acts* (1919), ch. 268, p. 444.
[44] New York *Session Laws* (1918), p. 1003.

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pensions for employees of counties having between one million and one million five hundred thousand inhabitants.[45] New Jersey provided half-pay pensions for all county employees who have served forty years and have reached the age of sixty-five.[46] Massachusetts provided refunds with interest for county employees who leave the service before becoming eligible to a pension.[47]

Pensions for sheriffs, prothonotaries, registrars of deeds, registrars of probate, judges and clerks of the county courts, who have held office for forty consecutive years were provided by Nova Scotia in 1918.

Pensions for State Employees. Several states established various types of pensions for state employees and amended earlier laws. New York revised her 1909 laws for the retirement of employees in state hospitals for the insane. The retirement fund which is to be permanent is to be acquired by deductions from salaries for leaves of absence without pay, leaves for sickness, and from other sources.[48] Pensions were extended to all persons employed under the superintendent of state pensions,[49] employees of state charitable institutions,[50] and to clerical employees of the Supreme Court.[51]

In 1920 New York enacted a more comprehensive and inclusive system of state civil service pensions.[52] It is similar in plan to that established for the New York City employees, including the contributory feature. Membership in the new plan began on January 1, 1921, and includes practically all persons in the state civil service.

Employees are classified in groups according to occupations. Group one includes male clerks and "administrative professional and technical employees engaged upon duties requir-

[45] Pennsylvania *Session Laws* (1919), No. 100, p. 138.
[46] New Jersey *Session Laws* (1918), ch. 164, p. 489.
[47] Massachusetts *General Acts* (1918), ch. 104, p. 79.
[48] Nova Scotia *Statutes* (1918), ch. 22, p. 592.
[49] New York *Session Laws* (1919), ch. 207, p. 798.
[50] *Ibid.* (1920), ch. 794, p. 19134.
[51] *Ibid.* (1918), ch. 508, sec. 117, p. 1627.
[52] *Ibid.* (1920), ch. 741, p. 1806 ff.

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ing principally mental exertion;" group two consists of female clerks; group three, mechanics and laborers; group four, male employees in state institutions; group five includes female employees in state institutions. These classifications are managed by the comptroller who is the head of the retirement system. As in some other states, four options were allowed as to the payment of the pensions.

Connecticut[53] and Maine[54] enacted similar state civil service retirement laws in 1919. New Jersey provided in 1917 a half-pay pension for sergeants-at-arms of the court of claims.[55] Massachusetts made provision in 1920 for the retirement of fish and game wardens.[56]

Several acts providing for special pensions to civil employees have recently been passed in New York,[57] Newfoundland,[58] Quebec,[59] and Cape of Good Hope.[60]

Pensions other than those for clerical employees have been recently instituted in many states in the form of annuities for judges, teachers, mothers, and indigent aged persons.

Judiciary Pensions. Louisiana by constitutional amendment in 1910 provided for pensioning supreme court judges, and by further amendment in 1918 provided for pensioning judges of lower courts. Legislation for judiciary pensions has been recently enacted in New Jersey, Illinois, and Australia. In 1920 New Jersey provided that disabled judges might retire on half pay before reaching seventy years of age and before serving the ordinary fourteen years.

Illinois decided in 1919 to pension judges who should retire after having served as judges in the courts an aggregate of twenty-four years and having attained the age of sixty-five.[61] This pension is to be granted to "any judge of a court of record in the

[53] Connecticut *Session Laws* (1919), ch. 210, p. 2867.
[54] Maine *Public Acts* (1919), ch. 38, p. 35.
[55] New Jersey *Session Laws* (1919), ch. 153, p. 340.
[56] Massachusetts *Acts* (1920), ch. 304, p. 321.
[57] New York *Session Laws* (1920), ch. 725, p. 1784.
[58] Newfoundland *Statutes* (1919), ch. 39, p. 117.
[59] *Statutes of Quebec* (1920), ch. 22, p. 69.
[60] *Ordinance of Province of the Cape of Good Hope* (1918), p. 56.
[61] Illinois *Session Laws* (1919), p. 413–14.

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state of Illinois whether of the Supreme, Circuit, Superior, Probate, County, City or Municipal Court."

Teachers' Pensions. Teachers' pensions systems have been modified in a few states. New Jersey, which has been the storm center of teachers' pension controversies, litigation and agitation since 1903, again had her laws revised in 1920. Practically all legal obstacles to a complete development of a model pension system now seem to have been completely swept aside in New Jersey, by legislation subsequent to the ruling in the case of *Allen* v. *Board of Education of the City of Passaic*,[62] in 1911. The constitutionality of the pension law was established in this critical case. It was held that deductions from teachers' salaries were a part of the contract and such deductions "do not constitute the taking of property without due process of law or the taking of private property for public use without just compensation." Such deductions are not "an exercise of the taxing power of the state" and the law which authorizes it is "not a private, local, or special law."

The 1920 act supplements this decision by providing that "should a contributor die before retirement, his accumulated deductions shall be paid to his estate or to such person having an insurable interest in his life as he shall have nominated." Four optional annuities are permitted.

Maryland modified her laws in 1920, established the Maryland teachers' retirement system, created a retirement fund, and provided for the payment of annuities to teachers in state educational institutions who retire or become disabled.[63] The system is noncompulsory. Teachers may become members upon application if the application is approved by the retirement board.

General superintendents of schools will be entitled to teachers pensions in Porto Rico by virtue of 1919 legislation.[64]

National Civil Service Pensions. Until May 22, 1920, the United States was the only great western nation which had no general pension system for its civil service employees. There had been pensions for certain government officials and em-

[62] New Jersey *Law Reports*, Vol. 81, p. 135.
[63] Maryland *Acts* (1920), ch. 447, p. 154.
[64] Porto Rico *Statutes* (1919), No. 7, p. 110.

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ployees, but there was no general retirement system for the main body of the civil service. Practically no attention was given to the subject in America until the twentieth century, although civil pensions had been developing in European states since the Council of Chalcedon in 451 A.D., and although military pensions in America had developed to gigantic and discreditable proportions since 1636, when the Plymouth Pilgrims inaugurated such pensions. But on May 22, 1920, after a decade of intense agitation, Congress passed "an Act for the retirement of employees in the classified civil service."[65]

It is a compulsory, part-contributory civil pension system. Employees are eligible to retire at seventy years, and they must retire at seventy-four provided they have served fifteen years. Mechanics, city and rural letter carriers, and post office clerks, however, are eligible to retire at sixty-two years of age, after fifteen years of service.

A deduction of two and one-half per cent of the employees basic salary is paid into "the civil-service retirement and disability fund." Should the contributor become separated from the civil service before arriving at the age of retirement, he will be refunded his deductions at four per cent interest compounded.

"For the purpose of determining the amount of annuity which retired employees shall receive," the employees are divided into six classes according to the length of their periods of service which varies from fifteen to thirty years. Likewise the corresponding annuities vary from a rate equal to thirty per cent of the basic pay to sixty per cent of the basic pay of the employee. The annuities are paid monthly. The pension system is administered by the commissioner of pensions under the supervision of the secretary of the interior. A board of actuaries is created consisting of three members.

The provisions of the pension system "may be extended by executive order, upon recommendation of the civil service commission, to include any employee or group of employees in the civil service of the United States not classified at the time of the passage" of the act.

[65] *Statutes of the U. S.*, 66th Cong., 2nd Session, ch. 195, p. 614.

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AMERICAN GOVERNMENT AND POLITICS

THE THIRD SESSION OF THE SIXTY-SIXTH CONGRESS, DECEMBER 6, 1920–MARCH 4, 1921*

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The Legislative Record. Apart from the appropriation bills the legislative record of the third (and final) session of the Sixty-sixth Congress was almost entirely negative. That was to be expected. The only purpose of a short session is to care for supply and Congress is fortunate if it is able to do this. A session of the old Congress after the election of the new, is one of the most striking anomalies of representative government in the United States. In the present case, there was an exceptionally large number of "lame ducks"—fifteen senators and one hundred and fourteen representatives, although defeated, continued to legislate for three months. Congress is always inclined, furthermore, to wait for a new administration to disclose its plans and there was little use of passing legislation which would be objected to by Mr. Wilson. The President was not sparing in his use of the veto power, and disapproved a number of bills.

The Appropriation Bills. Until nearly the close of the session, the indications were that several of the appropriation bills would fail to pass. The Senate had devoted so much time to the Emergency Tariff Bill and to miscellaneous debate, that a legislative jam in the final days seemed inevitable. In the House the situation was much better. On February 17, Mr. Mondell was able to say that the House had "established a record in the prompt and early passage of appropriation bills. The last appropriation bill has passed the House at an earlier date than at any short session in the last twenty-five years."[1] This

* For previous notes on the work of Congress, see *American Political Science Review*, Vol. 13, p. 251 (1919), Vol. 14, pp. 74, 659 (1920).

[1] *Congressional Record*, p. 3547. On the other hand, Senator Poindexter said that the chief reason for the failure of the Naval Appropriation Bill was the late day (February 15) on which it was received from the House of Representatives. "As it came from the House of Representatives, the bill was in such

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record was due, in part to the handling of all appropriation bills by a single committee and in part, also, to the fact that President-elect Harding, although "exceedingly hesitant" about expressing his views, anxious to avoid "any unbecoming intrusion," and begging Mr. Mondell not to "misconstrue," asked the leaders of the Senate and the House to get the appropriation bills out of the way "so that the new Congress can give its entire attention to the work which we all know it will have to perform."

HISTORY OF APPROPRIATION BILLS, THIRD SESSION

BILL (H. R.) NO.	TITLE	HOUSE REPORT NO.	PASSED HOUSE	SENATE REPORT NO.	PASSED SENATE	SENT TO CONFERENCE	CONFERENCE REPORT (HOUSE) NO.	CONFERENCE REPORT AGREED TO	DATE APPROVED	LAW NO.
			1920.		1921.	1921.		1921.	1921.	
15130	District of Columbia	1124	Dec. 18	677	Jan. 19	Jan. 24	1321[a]	Feb. 15–17	Feb. 22	326
15344	Pensions	1144	Dec. 23	742	Feb. 10	.....	.....	.....	Feb. 16	317
			1921.							
15422	Sundry civil	1153	Jan. 7	755	Feb. 9	Feb. 11	1355–1418	Mar. 3	Mar. 4	389
15441	Post Office	1154	Jan. 8	721	Feb. 18	Feb. 19	1350	Feb. 25	Mar. 1	337
15543	Legislative	1165	Jan. 14	774	Feb. 14	Feb. 16	1375	Mar. 1	Mar. 3	364
15682	Indian	1184	Jan. 20	744	Feb. 10	Feb. 12	1338	Feb. 25	...do....	359
15812	Agriculture	1212	Jan. 27	777	Feb. 23	Feb.23–24	1384	Mar. 2	...do....	367
15872	Diplomatic and consular	1226	Jan. 31	773	Feb. 18	Feb. 19	1348	Feb.24–25	Mar. 2	357
15935	Rivers and harbors	1256	Feb. 1	776	Feb. 25	.....	.....	.....	Mar. 1	353
15943	Army	1264	Feb. 8	809	Feb. 26	Feb.26–28	1398–1409	Mar. 3	.....	Vetoed.
15962	Deficiency (first for 1921)	1274	Feb. 10	803	Feb. 18	Feb. 19	1346–1353	Feb. 24	Mar. 1	338
15975	Navy	1281	Feb. 14	816	.....	.....	.....	.....	.....	.....
16100	Fortifications	1326	Feb. 17	806	Feb. 26	.....	.....	.....	Mar. 3	368

[a]Also Senate Document 391.

Congress finished everything except the Naval Appropriation Bill which was withdrawn in the Senate. Advocates of economy were sufficiently strong to kill it by a filibuster, but the leaders, foreseeing its fate, did not force the issue. As reported to the Senate it carried one hundred million dollars more than as passed by the House, but the House had only consented to the bill on assurances from its leaders that no increases by the Senate should be allowed. So, even if the Senate had acted, the conference committee and the objections of the House would

form that, if it had been enacted into law, it would have led to the demoralization of the American Navy, and to a paralysis of the great organization which has been undertaken." *Ibid.*, March 3, p. 4571.

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have been sufficient to defeat the measure. President Wilson vetoed the Army Appropriation Bill on the ground that it did not provide for a sufficiently large army. The other eleven bills became law.[2] Their history is given above. In spite of the drive for economy the total appropriations (including the navy bill as passed by the House) amounted to nearly four billions. A comparison of the 1922 figures with those for 1921 is given below.

Forty legislative riders were attached to the appropriation laws, but few were of any importance. The deficiency law authorized the reëxamination of midshipmen found deficient at the close of their last term; the postoffice law authorized the secretary of war to loan tractors to highway departments of states for use in the construction of roads; the diplomatic and consular bill provided for the appointment of a commission on embassy and legation buildings abroad; the legislative, executive and judicial law changed the title of the "Superintendent of Capitol Building and Grounds" to "Architect of Capitol;" the agricultural law appropriated two million dollars for loans to farmers in drought-stricken regions for the purchase of seed grain, and authorized the president to invite foreign governments to participate in a world's dairy congress.

Other Legislation. Congress passed 115 public laws, but 20 of these related to bridges and 60 others were of only local importance. It is worth while noting that 44 of them were approved by Mr. Wilson on the last two days of the session. There were 17 public resolutions, 47 private laws, and 2 private resolutions. Four measures became law since they were not signed ten days after their receipt by the President, but in two of these cases, the bills were lost.

The only features of the legislative output worth mentioning are an amendment to the Esch-Cummins Railroad Law (Public No. 328; February 26, 1921); an amendment to the Export Finance (Edge) Act to authorize the use of corporations as depositaries in the Panama Canal Zone and United States possessions (Public No. 329; February 27); an amendment of the Trading with the Enemy Act (Public No. 332; February 27); an amendment of the Farm Loan Act (Public No. 379; March 4), and a joint resolution (S. J. Res. 191; Pub. Res. 54) creat-

[2] In the short session of the Sixty-second Congress the sundry civil bill and the Indian appropriation bill failed; at the close of the Sixty-fourth Congress, the army bill, the general deficiency bill, the military academy bill, the river and harbor bill, and the sundry civil bill failed; and at the short session of the Sixty-fifth Congress a filibuster in the Senate prevented the passage of six of the great annual supply acts and one deficiency bill. *Congressional Record*, p. 4743.

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REGULAR AND PERMANENT ANNUAL APPROPRIATIONS FOR FISCAL YEAR 1922 COMPARED WITH APPROPRIATIONS MADE FOR FISCAL YEAR 1921[a]

REGULAR ANNUAL APPROPRIATION ACTS (COMPLETED)	APPROPRIATIONS, FISCAL YEAR 1921.	APPROPRIATIONS, FISCAL YEAR 1922.	INCREASE (+) OR DECREASE (−), 1922 APPROPRIATIONS COMPARED WITH 1921 APPROPRIATIONS.
Agriculture	$31,712,784.00	$36,404,259.00	+$4,691,475.00
Army (including Military Academy)	394,700,577.70	346,703,906.80	−47,996,670.90
Diplomatic and Consular	9,220,537.91	9,326,550.79	+ 106,012.88
District of Columbia	18,373,004.87	19,412,412.99	+ 1,039,408.12
Fortifications	18,833,442.00	8,038,017.00	−10,795,425.00
Indian	10,020,555.27	9,761,554.67	− 259,000.60
Legislative, executive, and judicial	106,570,610.11	110,345,018.75	+ 3,774,408.64
Pension	279,150,000.00	265,500,000.00	−13,650,000.00
Post Office	504,434,700.00	574,057,552.00	+69,622,852.00
River and harbor	12,400,000.00	15,250,000.00	+ 2,850,000.00
Sundry civil	435,848,806.92	384,196,760.41	−51,652,046.51
Total, regular annual appropriation acts, completed	1,821,265,018.78	1,778,996,032.41	−42,268,986.37
Regular annual appropriation act, pending.			
Naval	433,279,574.00	[b]396,001,249.23	−37,278,324.77
Grand Total, regular annual appropriation acts	2,254,544,592.78	2,174,997,281.64	−79,547,311.14
PERMANENT AND INDEFINITE APPROPRIATIONS.			
Interest on the public debt	975,000,000.00	922,650,000.00	− 52,350,000.00
Sinking fund	253,404,864.87	265,754,864.87	+ 12,350,000.00
Expenses of loans	12,499,182.96	.....	− 12,499,182.96
Roads, construction of	104,000,000.00	1,000,000.00	−103,000,000.00
Customs Service, repayments, etc.	20,200,000.00	27,000,000.00	+ 6,800,000.00
Indian funds, and interest on same	23,775,000.00	23,475,000.00	− 300,000.00
Miscellaneous	38,847,752.29	60,896,496.00	+ 22,048,743.71
Increased compensation to certain employees ($240 bonus)	35,000,000.00	35,000,000.00	.....
Total, permanent and indefinite appropriations	1,462,726,800.12	1,335,776,360.87	−126,950,439.25
Miscellaneous, including $18,600,000 for hospitals	.....	20,000,000.00	+20,000,000.00
Grand total, regular annual and permanent and indefinite appropriations	3,717,271,392.90	3,530,773,642.51	−186,497,750.39
Deficiencies	[c]187,006,165.28	[d]275,256,005.21	+88,249,839.93
Railroads	800,000,000.00	.....	−800,000,000.00
Grand total	4,704,277,558.18	[e]3,806,029,647.72	−898,247,910.46

[a] *Congressional Record*, March 4, p. 4734.
[b] As passed by the House.
[c] Deficiencies for 1920 and piror fiscal years.
[d] Deficiencies for 1921 and prior fiscal years.
[e] Encluding the naval bill as passed by the house.

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ing a joint committee on the reorganization of the administrative branches of the federal government.

The measure for the reapportionment of representatives in Congress under the fourteenth census (H.R. 14498; House Report 1173) passed the House on January 19 but was not considered in the Senate. In its first form it would have increased the number of representatives from 435 to 483—one for every 218,986 of the population, instead of one for 242,415 as at present[3] but the sentiment of the House was against the increase and the bill was amended to retain the present number 435. This, if adhered to, will mean a reduction in the representation of eleven states.[4] But the matter went over to the Sixty-seventh Congress, and the self-denying ordinance may not be thought to be binding.

Presidential Vetoes. During the session, Mr. Wilson refused to approve 14 measures. Three were passed over his veto. The Senate voted 53—5, and the House 250—66, to override the veto (January 3, 1921) of the Senate Resolution (S. J. Res. 212) for the rehabilitation of the War Finance Corporation and for loans to farmers (Pub. Res. 55); the House Resolution providing for enlistments in the army to be discontinued until the quota was not more than 175,000 men (vetoed on February 5) was also passed over the President's objection (Pub. Res. 59), as was a measure relating to the drainage of Indian allotments of the Five Civilized Tribes of Indians (Public No. 355). In two cases, a two-thirds vote was lacking. These were a minor measure to issue a land patent to the Milk River Valley Gun Club of Montana (S. 793) and the emergency tariff bill, vetoed on March 3 (H. R. 15275). The House failed to override the veto by a vote of 201–132, and the political business which had consumed most of the Senate's time during the session came to naught.

In four cases no effort was made to overcome the President's objections: Senate 4526, to extend the date on which section 10 of the Trust Law relating to interlocking directorates would become effective, and three private measures. Included in Mr. Wilson's total of fourteen vetoes were five pocket vetoes. One of these was the bill for

[3] See "Hearings before the Committee on the Census, House of Representatives, Sixty-sixth Congress, Third Session," on H. R. 14498, H. R. 15158, and H. R. 15217, December 28, 1920–January 6, 1921; House Document No. 918, and *Congressional Record*, January 18 and January 19.

[4] The increase of the representatives to 483 would mean that no state would have its representation reduced. It may be added that the debate raised the question of the disfranchisement of the negro in the South and the possibility of legislation under the Fourteenth Amendment.

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the temporary suspension of immigration (H. R. 14461); one was the army appropriation bill, which did not, in the President's opinion, make provision for an adequate army; and one was a measure for the reorganization of the war risk insurance bureau (H. R. 13558).[5] The other two were bills for private laws.

Congressional Investigations. During the Sixty-sixth Congress, regular or special committees investigated the following matters: the price of coal; socialist activities in the federal trade commission; the strike of railroad employees; the peace treaty "leak;" reparation by Mexico; the status of C. A. K. Martens, of Russia; the shortage and price of sugar; the wheat situation and transportation problems in the Southwest; the amount and grades of cotton and wheat held in the United States; the whole question of public buildings and grounds; the suspension of Miss Alice Wood, a District of Columbia school-teacher; rents and the high cost of living in the District of Columbia; bread prices; the activities of government departments in public health matters; the eligibility of Victor Berger to membership in the House of Representatives; war department contracts and expenditures; budget systems; the shipping board and fleet corporation; the public school system in the District of Columbia; housing conditions and building construction; the Michigan senatorial election case; campaign expenditures of candidates for the presidential nominations; expenditures of the presidential candidates; the constitutionality of the peace treaty with France; war risk insurance matters; the case of Robert A. Minor, alleged distributor of Russian propaganda, who was detained in France; action by the attorney-general on the Louisiana sugar situation; loans to foreign countries; illegal entry of aliens across the borders of the United States; deportation proceedings; loans by the federal reserve board on wheat and other cereals; print paper prices; speculation by United States grain corporation officials; cotton acreage; Canadian control of railroads in the United States; living conditions of railroad trainmen who

[5] It may be said that during the first two sessions of the Sixty-sixth Congress, Mr. Wilson vetoed fourteen other measures. Two of these were passed over his veto: the prohibition enforcement bill, and the repeal of the daylight saving law. Four measures vetoed became law in substituted and modified bills. In two cases the two-thirds vote was lacking: the resolution (H. J. Res. 327, vetoed May 27, 1920) terminating the state of war and the bill providing a budget system. In three cases no effort was made to override the veto, and at the close of the second session, three measures failed under a pocket veto. Most of these facts have been given in previous notes in this *Reveiw*, but are here summarized to make a complete record of the vetoes during the Congress.

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lie over between trips; mining conditions in Pennsylvania and West Virginia; coal costs to railroads; discrimination in prices paid for live stock; oil and petroleum prices; the price of shoes; animal feeds; loose-leaf tobacco prices; causes of the steel strike; the federal board for vocational education; conditions in the Virgin Islands and what constitutes a "fighting navy."

This list is much longer than that of the Sixty-fifth Congress, because of the fact that the Congress was Republican and the President Democratic, although, as will be seen from the enumeration, the purpose was not only to investigate the executive, but to secure information for the legislature. In addition to these investigations, which were actually held, nearly two hundred other inquiries were proposed, but not sanctioned by the chambers, and the regular committees, in the course of ordinary activities (hearings on appropriation bills, for example) probed into many executive matters which have not been mentioned.

Notes on Procedure. The business of the session raised a number of interesting questions of congressional procedure. There was the usual discussion of the seniority rule for the chairmanships of the committees, with proposals for supplanting it by free election. But the admitted evils of a system under which men hold their posts not according to fitness but to length of service are known while those of a new scheme are not, and no change is contemplated. In the Senate, the situation was amazing. For day after day it laid the appropriation bills aside and discussed a makeshift, compromise tariff bill when it was sure that President Wilson's inevitable veto could not be overridden. With a very few exceptions the Senate confirmed no appointments; they, and the pending treaties, were left for recommendations from the incoming President.

The House of Representatives at times showed its restlessness under the unavoidable, but occasionally irksome and unsatisfactory dictatorship by a steering committee. But, in addition to the incidents concerning points of no quorum and individual filibusters, which make the observer wonder whether the House is a deliberative body, there were several important questions raised by the operation of the new House rules concerning appropriation bills.

The House Budget Rules. At the preceding session, to prepare for the operation of the budget bill, the House revised its rules so that a single committee on appropriations, consisting of 35 members, would deal with the budget, and, pending its inauguration, with all the appro-

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priation bills.[6] At the same time, to quote Chairman Good of the House appropriations committee, "the House changed its rules in another vital particular, which increased the work of making appropriations.[7] Rule XXI was amended so that Senate amendments, which would have been subject to a point of order if offered on the floor of the House to an appropriation bill, should be brought back to the House by the conferees for a vote. This change has taken from the conferees some of the power they have hitherto possessed, and has placed in the House the power to pass on all Senate amendments on appropriation bills carrying legislation.

"Those who have closely followed the history of appropriation bills realize the power of conferees under the old system. Take the Naval appropriation bill, for example. Not infrequently did the Senate add several pages of legislation to the annual naval bill. Some of this legislation was often repugnant to the members of the House, and most of it was never understood, not even by the conferees themselves. It was legislation sent by the departments on which there were no hearings, and for which the necessities were never explained. Too frequently such amendments were incorporated in the conference report, and the members of the House never had an opportunity to discuss, consider or vote upon the legislation which was thus placed upon the statute books. They were compelled either to vote up or down an entire conference report. This is a grave responsibility, and the ordinary member would rather shut his eyes and vote for a conference report, even though it carried legislation he did not believe in, rather than assume the responsibility of voting against a great supply bill.

"When this rule was changed and until about two weeks ago, it was confidently predicted by well-informed members of the House who have

[6] See *American Political Science Review*, Vol. 14, p. 670.

[7] The exact language of the amendment is as follows:

"2. Any amendment of the Senate to a general appropriation bill which would be in violation of the provisions of clause 2 of Rule XXI, if said amendment had originated in the House, shall not be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment."

The language of Rule XXI, which was referred to, is as follows:

"2. No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress." *House Manual and Digest*, sec. 815.

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followed the history of appropriations, that the proposed change was unworkable and that too much time would be involved in considering Senate amendments. That rule has lived long enough to justify its existence and prove its great value. In this Congress every important Senate amendment carrying legislation was laid before the members of the House, and on each of those amendments the House took a separate vote. The fact that we have had that kind of a rule has forced the Senate to withhold very, very many amendments providing new legislation, which otherwise would have found a place in the supply bills. More than that, this very wholesome rule has forced the Senate to respect the rules of the House. The retention of this rule and the strict enforcement of it will maintain for the House its proper place in the legislation of the Congress."[8]

Mr. Good's opinions seemed to be generally shared by the House, although during the session there were a number of criticisms. The objections came, for the most part, from members of the committees which had had charge of the different appropriation bills, and who had lost some of their prestige. It was said that 35 men ran the House; that the 150 men who had worked hard on these committees "might as well be given a time table and told to go home. The 35 men on the Appropriations Committee could even take their proxies and their return would not be necessary."[9] A more serious objection was that, under the rule quoted in the footnote, necessary appropriations, when not authorized by law, were subject to points of order, and the points were made, in many cases, by the members of the committees which previously had had the appropriations within their jurisdiction.[10] It

[8] *Congressional Record*, March 4, p. 4743. The most serious deadlock between the House and the Senate under this rule was probably on the sundry civil bill. A Senate amendment appropriated ten million dollars for the Muscle Shoals nitrate proposition. The House conferees submitted the amendment to the House and by a vote of 182–193 the House refused to recede from its position and concur in the Senate amendment (February 25, *Congressional Record*, p. 4100.) On March 3, the House by a vote of 144–207 again insisted on its disagreement (p. 4654), and the Senate was forced to yield. (March 3, p. 4711.)

[9] On February 11, Congressman Lanham read to the House his poem entitled "In Memory of Those Who Died at the Battle of Budget Hill." A Parody on the "Charge of the Light Brigade," this effusion extolled "the slaughtered four hundred" whom the thirty-five had "shattered and sundered."

[10] Congressman Britten, however, complained that the appropriations committee was legislating; that, by making it appear that the appropriations were for additions to naval equipment, grants were made for what were really new purposes, not authorized by law, but not subject to points of order. *Congressional Record*, February 12, p. 3231.

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was not feasible for the necessary legislation to be brought in and passed under the general rules of the House, so the Senate was relied upon to insert the appropriations. But this required more time and the judgment of the House was limited to a "yes" or "no." Nevertheless the last days of the session, so far as the House was concerned, were less chaotic than usual.[11]

A very interesting question as to the right of the House of Representatives to originate bills for raising revenue was broughtup by Congressman Luce. He suggested that Senate Joint Resolution 212, reviving the War Finance Corporation, contravened the Constitution, and proposed to the House a resolution providing for the return of the Senate measure to the body in which it originated. Following a ruling by Speaker Carlisle, the Speaker submitted to the House the question whether the resolution presented by Congressman Luce involved a privileged matter, and the House decided that it did not.[12]

Guillotine. Following the precedent of the bonus bill,[13] suspension of the House rules, with debate limited, and no amendments allowed, was resorted to in the case of important controversial legislation. But the House revolted. On Monday, February 7 "Suspension day"—the House steering committee proposed to suspend the rules and pass House Resolution 15836, to amend the Transportation Act of 1920.[14] This procedure allowed twenty minutes of debate a side, no amendments, and required a two-thirds vote. Members objected not so much to the bill as to the method. The bill had been reported to the House on January 26, and the rules committee had brought in a resolution (H. Res. 663) for a rule under which the bill could be debated and

[11] On January 7, Speaker Gillett made a very important ruling under Rule XXI. House Resolution 15163, on the union calendar number 373, was reported from the committee on Indian affairs, carrying an appropriation of $100,000. The committee, observing the spirit of the rule, reported an amendment striking out the appropriation and inserting an authorization. For the purpose of securing a ruling, Congressman Mann made the point of order that the bill was erroneously on the calendar. "It seems to the Chair," the Speaker said, "that the purpose of the rule—to prevent legislative Committees from reporting appropriations will be effected by ruling that the point of order lies against the item of appropriation, and not against the reporting of the bill." *Congressional Record*, p. 1181.

[12] See *Congressional Record*, December 18, p. 536.

[13] See *American Political Science Review*, Vol. 15, p. 79.

[14] House Report No. 1243, January 26: rejected in House, February 7; passed House, February 8; reported in Senate, February 16; passed Senate, February 22; approved by President, February 26; Public No. 328.

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amended. The steering committee of the House apparently vetoed this customary course which the interstate commerce committee was intending to take and decided to get the bill through in forty minutes. The revolt against the leadership of the House was rather more voluble than usual,[15] and two-thirds not voting in its favor, the proposal was rejected.

House Resolution 663 was called up the next day. Twenty minutes a side were allowed on the resolution and an hour's debate on the bill; but the resolution also provided that "the bill shall be read for amendment under the 5-minute rule." Only one amendment was accepted, but it was an important one, and the bill was passed without a yea and nay vote, 311 members present.[16]

Even obnoxious gag rules, however, were not sufficient to delay the passage of a measure (H. R. 15894) which provided better "hospitalization" for disabled soldiers. The bill was passed unanimously, although in some respects it was considered unsatisfactory by a material percentage of the membership of the House, and, as in the case of the railroad legislation, the method was objected to.[17]

[15] Mr. Barkley: "It is nothing short of an outrage that this bill is brought in under these conditions. There are many members on both sides of the House who want to support it. I myself will support it under proper conditions, but I will not vote to suspend the rules and pass this bill without debate or amendment." *Congressional Record*, p. 2869.

Mr. Rayburn: "This move here today is made in the face of everything that has been agreed to in our committee since its organization for fair consideration. This move is made in order to protect the leadership of this House, the members of the Rules Committee, because they are afraid to report a rule for a bill and not report it on other matters. They are saying that they will not report any rules at all!" (P. 2869.)

Mr. Sims: "This bill provides potentially for $400,000,000 to be taken out of the Treasury . . . . the appropriation being automatic under the Transportation Act. Not even an amendment can be offered. What is the matter with the bill? Is it so good that no member of the House should be permitted to offer an amendment to it?" (P. 2870.)

[16] *Congressional Record*, p. 2951.

[17] Provision was made for five hospital plants for the treatment of neuropsychiatric and tuberculosis patients; "One in the Central Atlantic Coast States, one in the region of the Great Lakes, one in the Central Southwestern States, one in the Rocky Mountain States, and one in Southern California." These locations were denounced as "porkbarrel allotments," three of them of doubtful suitability for tuberculosis patients. The problem, Mr. Wingo said, should be settled "free from any sectional discrimination or political trade or trafficking." The gentlemen in charge of the bill deprecated "partisanship and sectionalism and log-rolling, yet as a matter of fact, the bill is brought here

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Filibusters in the House. The attempt is made by elaborate rules to take from the members of the House of Representatives that power to delay proceedings which is possessed by the individual senator. But, during the short session, the House had rather more filibusters than usual.

A filibuster defeated a bill promoting Major General Enoch H. Crowder to the rank of lieutenant general upon his retirement from active service. An hour was taken up by discussing whether the bill (S. 2867) was in order under the rule permitting the House to go into committee of the whole House to consider business on the private calendar. The rule provides that "on every Friday except the second and fourth Fridays, the House shall give preference to the consideration of bills reported from the Committee on Claims and the Committee on War Claims, alternating between the two Committees." The Crowder measure came from the committee on military affairs. After a lengthy discussion and a number of dilatory motions,[18] the chairman ruled that the bill was properly before the committee, and that its consideration was in order if the committee of the whole did not vote to take up measures reported from the two committees given preference by the rule. Discussion of the merits of the bill proceeded for over two hours, and the rest of the day's session, which lasted seven hours, was taken up by dilatory motions and roll calls.

Congressman Greene, who had the measure in charge, was unable to agree with the opponents of the bill on an allocation of time and moved that the committee rise. This was agreed to, 96–47, but the point of no quorum was made and there was a roll call on a motion to adjourn. Mr. Greene then moved that the House resolve itself again into the "Committee of the Whole House on the State of the Union," and pending that, he moved that general debate on Senate 2867 be closed, and on that motion demanded the previous question. There was a roll call on the previous question, which was ordered by 173–146, and immediately thereafter another roll call on a motion to adjourn. This was lost. The motion to close debate was carried,

under suspension of the rules of the House so that the Democratic side of this House and no man on the Republican side of the House who wants to go further and offer amendments so to meet the whole problem by a broad constructive bill instead of the piecemeal bill is denied the opportunity to do so." *Congressional Record*, February 7, p. 2863.

[18] On one of these the chairman voted in the negative and made the result a tie, so that the motion to consider bills from the committee on claims was lost. See *Hinds Precedents*, sec. 5997.

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with another roll call. It was then discovered that the House was in a tangle, since Mr. Greene's motion should have been to go into committee of the whole House, and not committee of the whole House on the State of the Union, a palpable error of form, since the Crowder bill could only be considered in the former committee. The Speaker made a liberal ruling: "that the motion to close debate which was made and voted on by the House, was not so dependent upon the original erroneous statement that he made as to be invalid because the original one was a mistake." So the chair held that the House had voted to close debate, that Mr. Greene might withdraw his original motion, move that the House go into committee of the whole House, and on that move the previous question. But before the result of the vote to order the previous question was announced a motion to adjourn was carried. The filibuster had been successful.[19]

A one-man filibuster, continuing for some time, was conducted by Congressman McClintic. On January 26 he began to object to extensions of remarks in the *Record*, on the ground that the paper shortage made it advisable to reduce the length of the report of congressional proceedings, and made several points of no quorum.[20] On each of the succeeding legislative days, Mr. McClintic made points of no quorum and on January 31 he made the point before the chaplain's prayer opening the House. The roll was also called before the prayer on February 1. When the army appropriation bill was reported Mr. McClintic objected to the request for unanimous consent that the first reading be dispensed with and the clerk read for an hour and a half. On February 2 the Speaker ruled that the point of no quorum could be raised at any time and was not barred by Rule XXIV providing that the order of business should begin with prayer. The roll was therefore called before the prayer on February 2 and February 3.

On February 4, however, the Speaker changed his ruling. He quoted Rule VIII: "The Chaplain shall attend the commencement

[19] For the report of the proceedings, see *Congressional Record*, February 18, pp. 3614–3639.

[20] January 26 was an interesting day also, in that the House voted 141–142 against an amendment to the agricultural appropriation bill providing $360,000 for free seeds. A motion to reconsider was made and a motion to lay that on the table resulted in a vote of 131–131. The next day the House voted 166–153 to reconsider its action and the amendment passed by 169–149. There had been four roll calls on the item. The amendment was struck out by the Senate and the House voted (February 28) 198–134 to insist on its action. The Senate debated the matter for an hour on March 2 and voted for it, 55–22.

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of each day's sitting of the House and open the same with prayer," and then discussed whether the prayer is business. This is probably the first ruling ever made by a Speaker of the House on the nature of prayer and Mr. Gillett's language deserves to be quoted:

"Obviously that (Rule VIII) provides that the opening exercises of the House shall be prayer by the Chaplain. The Chair thinks that it is not a matter of business but that it is a matter of ceremony, of devotion, and that its appeal is not to the duty of members to hear it, but to their sense of reverence. Presence of members is not compulsory. Rule I provides that the Speaker shall take the chair and call the members to order, and on the appearance of a quorum cause the Journal to be read. There it specifically says that for the reading of the Journal, which is the first business after prayer by the Chaplain, a quorum shall appear. By indirection that would indicate that the prayer does not require the presence of a quorum inasmuch as the rule particularly says that it does require a quorum to read the Journal.

"The Chair therefore is disposed to think that the offering of prayer by the Chaplain is not business of the House that requires a quorum, and that regardless of any gentleman's sense of reverence or propriety, it is not in order to make the point of order that there is no quorum present."[21] An appeal from the decision of the chair was laid on the table, 232–70. Mr. McClintic's objections, however, which continued until the end of the session, resulted in the *Record* providing a more accurate account of proceedings in the House than has been the case for a number of years.

[21] *Congressional Record*, p. 2691. On February 5, the day before the attempt to suspend the rules and pass the railroad bill (see above) Congressman Huddleston inquired what the intentions of the Republican leaders were with reference to the Winslow Bill, and when the information was refused conducted a little filibuster for the afternoon. He offered twenty amendments to the army appropriation bill (which was being considered under the five minute rule) and argued them all (with allusions to the proposed railroad legislation) until called to order for not discussing the matter at issue. He made three points of no quorum which did not require roll calls since the President's message vetoing the army resolution was to be voted upon and one hundred members—the committee of the whole quorum—were present. But when the committee of the whole reported the army bill to the House, Mr. Huddleston made the point, the roll was called, followed a moment later by a yea and nay vote on the veto message. *Congressional Record*, p. 2777ff.

Certain members of the House also sought, from time to time, to secure information from the leaders as to their proposals for the bill to create a live stock commission and regulate the packing plants (S. 3944; Senate Report 429). This measure passed the Senate January 24 and the House Report (No. 1297) was made February 5, but it was not allowed to be considered.

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LEGISLATIVE NOTES AND REVIEWS

EDITED BY WALTER F. DODD

Administrative Reorganization in Ohio. A joint legislative committee on administrative reorganization was established in Ohio in 1919, with Senator Frank E. Whittemore as chairman. This committee organized an investigation of the existinga dministrative system in Ohio, which was conducted under the general supervision of Mr. Don C. Sowers, director of the Akron Bureau of Municipal Research. The results of the investigation were published in a series of about seventy-five or eighty small pamphlets, and a summary of the recommendations involved in these separate pamphlets was embodied in a pamphlet summary. A good deal was accomplished by this investigation, and Governor Harry L. Davis made his campaign for nomination and election to the governorship in 1920, largely on the program of state administrative reorganization.

When Governor Davis came into office no specific work had, however, been done upon a comprehensive single plan, and no details of a bill had been worked out. Messrs. George E. Frazer and Walter F. Dodd of Chicago, and Prof. Clarence D. Laylin of the Ohio State University, were engaged by Governor Davis and the legislative committees in charge of this matter, to assist in obtaining agreement upon a definite program and in drafting this agreement in the form of legislation. An act to establish an administrative code, embodying the results of the work outlined above, was approved by the governor on April 26, 1921. This act contains an emergency clause excepting it from the referendum, and was adopted by more than two-thirds vote of the two houses. The constitutionality of the emergency clause has been sustained by the supreme court of Ohio.

The administrative code of Ohio does not touch the constitutional offices of lieutenant governor, secretary of state, auditor of state, treasurer of state, and attorney general. It does not affect what is perhaps the most serious constitutional difficulty in Ohio from the administrative standpoint, the two year term of governor. It is well recognized both in Ohio and elsewhere that the governor cannot effec-

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tively conduct a state administrative system if there must be a change or the possibility of change in the governorship each two years.

An outline is given below of the departments organized by the Ohio administrative code and of the work assigned to each of these departments:

Department of Finance: budget, financial control, purchases and printing, tax commission.

Department of Commerce: supervision over banks, building and loan associations, state fire marshal, insurance, inspection of oil, supervision over securities, public utilities.

Department of Highways and Public Works: work of present department of public works, highways, state architect and engineer, supervision over purchase of real estate, planning of all building construction, custody of capitol building and grounds.

Department of Agriculture: animal industry, fish and game, foods and dairies, plant industry, state fair.

Department of Health: All of the present health activities of the state.

Department of Industrial Relations: All of the present activities of the industrial commission, including factory inspection, labor, statistics, mines, workmen's compensation.

Department of Education: general supervision over professional licensing boards, film censorship, all of the present work of the department of education, libraries. The director of education is made ex-officio a member of the board of trustees of each of the normal schools and of each of the three universities, and also a member of the board of trustees of the Ohio archaeological and historical society.

With respect to the educational organization, each of the normal schools and each of the three universities is left with its independent board. A coördination among the several institutions is sought by making the director of education ex-officio a member of each of these boards. In the past the Ohio agricultural experiment station has been under a board independent of the trustees of the Ohio State University. The administrative code provides that the board of control of the state agricultural experiment station shall consist of the director of agriculture and the members of the board of trustees of the Ohio State University, and thus seeks to bring about a closer coördination of these related activities. Aside from the addition of the director of education as an ex-officio member of the Ohio State University, no changes have been made in the governing body of that university. The board of

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trustees of Miami University and the boards of normal schools have been left substantially as they were, except for the addition of the director of education as ex-officio a member of such boards. The board of trustees of the Ohio University has been reduced to seven members (with the director of education an additional ex-officio member). It was thought unwise in connection with the Ohio reorganization to consolidate completely the control of higher educational institutions.

The tax commission of Ohio, the industrial commission, and the public utilities commission, are left with their present membership, and with members having overlapping terms. In the contemplation of the act these commissions are to be entirely independent in the performance of their quasi judicial functions, but are to be parts of their respective departments for administrative matters. In order to carry out this plan the director of finance is secretary of the tax commission, the director of commerce is secretary of the public utilities commission, and the director of industrial relations is secretary of the industrial commission.

For the headship of the department of education and of the department of highways and public works constitutional officers are designated. By the constitution of Ohio there is an officer appointed for four years and known as the superintendent of public instruction. The superintendent of public instruction, although appointed by the governor, serves for twice the term of the governor. In spite of this, however, it was thought best to consolidate all of the educational work of the state under the superintendent of public instruction as director of education. In the state of Ohio there is also a constitutional officer known as superintendent of public works, appointed by the governor for the term of one year. The superintendent of public works under the Ohio administrative code becomes the director of the department of highways and public works.

The most distinctive features of the Ohio reorganization are the following:

1. The development to a greater extent than in any other state of the theory that administrative work should be conducted by single heads of departments. The three important commissions mentioned above have been continued, but their administrative work has been to a much greater extent than in other states coördinated with the departments created by the administrative code. In line with the view herein suggested, the Ohio reorganization act provides for few

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boards even of an advisory character, but authorizes the departments with the consent of the governor to create such boards in cases where it may be deemed desirable.

2. In direct line with what has been suggested above, the heads of divisions within each department are made appointive by the heads of such departments rather than by the governor. That is, to a much greater extent than in any other state the head of each department is in command of the work of that department. One important exception to this statement may be noted. The division of banks in the department of commerce is more distinctly independent of the department of commerce than are the other administrative divisions of that or of any other department. This independence consists primarily of the fact that the head of the division of banks is appointed directly by the governor.

3. The governor is given complete command over the heads of his departments, each director holding his office during the pleasure of the governor.

Another important element in the Ohio reorganization is that by which all of the library activities of the state are placed under the department of education. A state library board is created to be composed of the director of education and of four other members to be appointed by the governor, and it is hoped that a dignified and effective position will through the new organization be given to the library services of the state.

Governor Harry L. Davis both in his campaign and after his election was the chief factor in bringing about the reorganization of the state administration of Ohio, and this reorganization is perhaps the most effective yet planned in this country, except for the fact of the constitutional limitation of the governor's term. In connection with this reorganization, Governor Davis had the loyal coöperation of the house and senate committees on administrative reorganization, and great credit for the enactment of this legislation is due to the members of these committees, and particularly to the chairmen, Senator Wallace W. Bellew, and Representative Robert C. Dunn.

W. F. D.

Administrative Reorganization in Missouri. In Missouri, Governor Hyde made the consolidation of state administration one of the foremost features of his legislative program. Seven distinct measures were introduced, of which all, except the one providing for a consolidation of the boards governing the state teachers' colleges, were passed.

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One act creates a single bipartisan board of six members in place of the separate boards in control of the six eleemosynary institutions. Another measure establishes the office of supervisor of public welfare to take over the functions previously exercised by the following officials: food and drug commissioner, state inspector of oils, state beverage inspector, and state inspector of hotels.

An act creating a department of labor abolishes six separate offices and boards, and a new department of agriculture was created to take over the duties which had been previously exercised by seven different bodies. Another act creates a department of finance to exercise the duties of the existing bank commissioner and the supervisor of building and loan associations.

The sixth act, which establishes the department of budget, is not strictly a consolidation measure. The department takes over the functions of the state tax commission. It prepares a tentative state budget for the governor, who passes upon it finally before submitting it to the legislature. A bureau of purchase established in the department of budget has supervisory functions regarding purchases and contracts of state departments and institutions.

Considerable opposition developed to all of these measures, except the one relating to the eleemosynary institutions, and they were passed by practically a strict party vote. The state Democratic committee has decided to invoke the referendum on five of the consolidation bills, as well as on certain other measures, and petitions are being circulated for this purpose. If the necessary number of signatures are secured to the referendum petitions, they will be suspended until the November election, 1922, unless a special election is ordered.

ISIDOR LOEB.

University of Missouri.

The New York State Legislative Session of 1921. April sixteenth closed one of the most remarkable sessions of the New York legislature in the history of that state. The session was notable for the complete domination of Governor Nathan L. Miller; for its program of economy and retrenchment; and for its breadth of legislation.

The legislature was composed, in the senate, of forty Republicans, ten Democrats, and one Socialist; in the assembly, of one hundred and eighteen Republicans, twenty-nine Democrats and three Socialists. With this tremendous majority with which to work, Governor Miller

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forced through his legislative program almost in its entirety. Splits and opposition in his party did not offer serious difficulties, because the "bolters," realizing the futility of opposition, swung into line and followed the masterful leadership of the governor. Legislative leaders, after conferences with him, changed their front and aided the program.

Faced with estimated appropriations of $200,000,000 for the state expenses, Governor Miller used all his power to keep within the 1920 expenditures. To do this it was necessary to cut off many unnecessary boards and commissions, and it is estimated that 2,000 sinecures have been abolished. The final budget calls for $135,000,000, a decrease of six million from that of 1920. This is a record which will receive much favor among the taxpayers of the state. The legislature added a thousand laws and amendments to statutes and in the closing hours, over a hundred bills were passed. This is not in itself any claim to superiority over other legislatures, but the quality of the legislation passed is evidence of the valuable work accomplished.

A bill to reorganize completely the state administration was killed, but many steps toward reorganization were taken. The tax collection agencies of the state were consolidated into a state tax commission, or department, composed of three members. This body will have charge of the collection of the income tax, the corporation tax, the automobile tax, the stock transfer tax, and the mortgage tax. This is definitely a move in the right direction, to collect these scattered activities under one head and to centralize their control. The industrial commission was abolished and a single commissioner provided to carry on the work. The same policy was pursued in connection with the council of farms and markets. The two public service commissions of the state were abolished and in their places was created a transit commission for New York City, and a public utilities commission which has sweeping powers, the law abolishing all existing franchise agreements between municipalities and public service corporations. The state boxing commission was changed to a state athletic commission with power over wrestling as well.

Among the agencies abolished as a part of the program of economy were the state excise commission which had charge of liquor licenses; the commission on narcotic drug control; the military training commission; and the state superintendent of elections. A board of estimate and control was created, composed of the governor, the comptroller and the chairmen of the senate and assembly finance committees. This board has power over the conduct and expenditures of the state

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departments including the right to investigate them. A state water power commission will open the vast water power resources of the state, with rates under the control of the public utilities commission, the development to be by private corporations and individuals. A state motion picture censorship will approve all pictures produced or exhibited in the state and a tax will be imposed on the films.

A policy of state enforcement of prohibition was adopted. The state bonus commission was organized to distribute the bonus to veterans of the World War and veterans were given preference in civil service rating.

The Levy Election Law which introduced the direct primary was amended and the party convention has been restored for the nomination of state and judicial officers. Delegates to this convention will be named at the direct primary. This was passed at the demand of the Republicans and was a part of the platform in the 1920 campaign, the Democrats opposing it vigorously.

The literacy test for voting will be submitted to the electorate at the fall elections as an amendment to the constitution. This test would require that every voter be able to read and write English.

This summary of the more important measures passed shows the extent of the work of the legislature, and in general the laws will be of benefit to the state. The movement for retrenchment, the abolition of unnecessary positions and the reorganization of various state departments, the whole program in fact, is the result of the political sagacity, leadership and personality of the governor.

F. G. CRAWFORD.

Popular Legislation in California, 1920. California has again been the scene of a great act of popular legislation. At the general election in November 1920, in addition to expressing their opinion on candidates for President of the United States and numerous other national, state and local officers, the people of California were called upon to judge of the merits of twenty proposals of law.

Ten of the measures were placed on the ballot by initiative; five were constitutional referenda, and five were referenda by petition; twelve of the twenty measures proposed amendments to the constitution, five coming from the legislature and seven from the people by initiative. Of the initiative measures three were adopted and seven were defeated. Of the referenda by petition two were adopted and three were defeated. Of all the twenty measures taken together eight were adopted and twelve were defeated.

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It is possible to draw useful conclusions from the fate of these measures. It was at one time supposed by advocates of the initiative and referendum that the initiation of a measure by petition argued a degree of popular interest which gave it a good chance of victory. This election reverses such a conclusion. As a matter of fact, as we shall see when we come to analyze the particular measures, the initiative was in this case taken advantage of by numerous special interests for the purpose of proposing measures of particular advantage to themselves or for the propagation of their particular "isms." To these special pleas the people of the state did not lend a kindly ear. It has been usually thought that the filing of a referendum petition indicated a widespread hostility to the measure in question. This contention is somewhat supported by the result of the California election. Two of the legislative acts submitted to referendum were measures of very great importance which were the subject of intense public feeling. Three of them were special measures attacked by special interests. Both of those adopted fell in this latter group. The constitutional referenda met, as might have been expected, a somewhat better fate. Little significance, however, can be attached to the results of the measures in this category because of the fact that, with one exception, they were matters of very trivial importance. At least eight of the twenty measures were by reason of their complexity or the trivial character of the issues involved entirely unsuited to popular determination.

The people of California have a deserved reputation for liberality. They sustained it at this election. Of six measures tending either directly or indirectly to increase taxes they adopted four. One of these was a measure increasing the amount now paid by the state in support of education in high and elementary schools from $17.50 to $30 per pupil. This will involve an immediate increase in expenditure on the part of the state of between seven and eight million dollars. Another important measure in this class was that increasing the rate of interest to be paid upon forty million dollars of highway bonds unsaleable at present rates of interest, and also providing that the state assume the burden now borne by the counties for the payment of interest on previously issued highway bonds. This measure, too, was adopted by a large majority. On the other hand, a measure increasing the salaries of justices of the supreme court and the district courts of appeal by $2000 a year, involving a total expenditure of $44,000, was defeated by a vote of over two to one. The people thus

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affirmed once more their implicit faith in small salaries. The people adopted a measure exempting orphanages from taxation and extending the limits within which state aid might be granted to private charitable institutions, both matters of small consequence. An initiative measure proposed by the alumni of the University of California to provide a tax on general property of one- and two-tenths mills on the dollar was defeated by a very narrow margin. The campaign for this measure was vigorous and the opposition was equally intense. The grounds of the opposition were that the measure broke down the system of separation of state and local taxation which prevails in California and that the funds to be derived from the mill tax were to be outside the control of the legislature and the state board of control. It was these arguments, rather than the amount of the tax which led to the defeat of the measure.

Among the initiative measures was one providing for the gradual introduction of the single tax. This is the fourth successive election at which a similar measure has appeared on the ballot. It has always been defeated heavily, this time by a vote of 196,000 for to 563,000 against. A primarily agricultural state like California is probably the least fruitful soil in the world for the single tax doctrine. The constant reappearance of this measure, however, on the ballot induced the real estate men of the state to propose by initiative a measure raising the percentage of voters who must sign an initiative petition from eight to twenty-five in the case of measures affecting taxation. This proposition was defeated by a vote of nearly two to one.

Three initiatives and one referendum by petition affected medical matters. One was a measure prohibiting compulsory vaccination, another prohibiting vivisection, a third establishing a separate board of chiropractic examiners. The fourth was a referendum upon an act regulating the use of narcotic drugs which it was alleged was unfair to the practitioners of osteopathy. The medical and scientific forces of the state delivered a united attack upon these propositions under the name of the "Quack Quartet." They were successful, the three initiatives being defeated and the proposition subjected to referendum carrying. The chiropractic measure came within about twelve thousand votes of passing. On the whole the people of California showed a commendable disposition to follow the leaders of scientific thought within this field.

Chief interest outside of California has attached to the Anti-Alien Land Law which was proposed by initiative and which was adopted

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by a vote of 668,483–222,096. This measure was intended to make effective the anti-alien land law passed by the legislature in 1913. It continued the prohibition of the earlier law of the ownership of land by aliens ineligible to citizenship. In addition it forbade any such alien to hold land as a trustee or guardian for the minor child of such alien, even though such minor child be a citizen of the United States, or to be a member of a corporation authorized to acquire or enjoy agricultural land. The act further provided that any conveyance with intent to evade the provisions of the act should be void as against the state and that taking property in the name of another person when the consideration was actually paid by an alien ineligible to citizenship or the execution of a mortgage to such an alien if the mortgagee put in possession should be prima facie evidence of such intent.

Few persons really closely in touch with the subject believe that this measure can prove effective. Many voted against it believing that it was a gratuitous, because useless, affront to our trans-Pacific neighbor. There is, however, substantial agreement among Californians that the matter of Japanese ownership of agricultural land has become a serious problem and that to avoid the consequences which are involved in so-called race questions, Japanese immigration should be promptly checked. The vote, therefore, was very significant as indicating the attitude of California toward the Japanese question in general and may, to that extent, help to point the way toward some adequate treatment of the problem by the national government.[1]

Perhaps the most interesting contest was between the women and the lawyers over the community property act (a referendum by petition). This act attempted to put husband and wife on a "fifty-fifty" basis as far as the testamentary disposition of property is concerned. California derived from her Spanish settlers the Roman law principle that husband and wife are partners. Coming into conflict with the common law theory that they are one and the husband that one, a compromise was evolved which prevails in California today. Upon the death of the wife all community property, that is property accumulated other than by gift or bequest during their married life, goes to the husband. On the death of the husband one-half goes to the wife, the other half being subject to the testamentary disposition of the husband. Failing

[1] Another measure affecting aliens adopted by almost the same vote, apparently under the impulse generated by the larger measure, was a poll tax of four dollars on every alien inhabitant. It was opposed by most thoughtful people on the ground that it was an unworthy and trivial insult to the Japanese. Their advice, however, was passed by unnoticed.

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such disposition this half goes to the husband's descendants. The act passed by the legislature under vast pressure from the women's lobby provided that on the death of either spouse one-half of the community property should go to the other while the other half might be the subject of disposition by will to the lineal descendants of the testator but not to others except with the consent of the spouse. In the absence of a will the whole community property was to go to the surviving spouse. To this measure the lawyers objected with extraordinary violence and very marked success. They argued that every partnership must be liquidated following the death of a married partner, that the credit of married men would be diminished, that a husband could not without his wife's consent leave a penny to his own parents. These arguments prevailed.

More sinister but equally destructive were the arguments addressed by the opponents of prohibition against the Harris Enforcement Act which they had subjected to referendum. The vote on this measure indicates the extent of the reaction against prohibition in this wine-producing state. It is less marked than might have been expected. The vote stood 400,475 for and 465,537 against.

Finally, the people passed upon a proposition for a constitutional convention. There is no denying that California needs a new constitution. It was already unduly long when it used to be carried in the appendix to Bryce's *American Commonwealth* as an example of a bad constitution. It is much worse today. No one has a kind word for it. The calling of a convention was, however, opposed by many of the most earnest critics of the constitution on the ground that the present was no time for a convention. This argument was accepted by conservatives who anticipated a radical convention and by progressives who dreaded a reactionary one. The call was overwhelmingly defeated.

On the whole the task required of the people was an impossible one. The pamphlet sent to the voters to acquaint them with the texts of the measures and arguments pro and con was a slight thing of 80,000 words. There was a good deal of agitation of some questions. The newspapers published strange and conflicting suggestions for voters. When all was said and done most electors voted blindly on all but two or three questions. They doubtless acted on advice but advice so conflicting as to largely neutralize itself. The long ballot of propositions is no less fatal than the long ballot of officers.

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The Nebraska Constitutional Convention, 1919-1920. The "Grasshopper Constitution" has been the local name of the Nebraska organic state document. It was adopted November 1, 1875. Most of the material in it can be clearly traced to the Illinois constitution of 1870. It was called "Grasshopper Constitution" because in 1874 Nebraska and the entire Missouri region was invaded by billions of flying Rocky Mountain grasshoppers, which ate the settler's crops and then laid their eggs at the rate of about one hundred and fifty eggs for each female grasshopper. These eggs were hatching in the spring of 1875 when the Nebraska constitutional convention met, and the hard times and frontier economic philosophy found expression in that document.

The constitution of 1875 contained the usual limitations of that period. It forbade the creation of new executive offices. It required a general property tax levied equally by value upon all kinds of property. It required every bill in the legislature to be read at large on three different days. It prohibited the payment of any money for clerk hire in the offices of the attorney-general and the state superintendent. It could be amended only by a majority of all the electors voting at a general state election or by calling a new constitutional convention.

Efforts to amend this constitution were mostly futile, because of the last provision. In forty years thirty-eight amendments were submitted, most of them without serious opposition. Only ten of them were adopted, and of these, five were "counted in" by various devices such as making the proposed amendment part of the party ticket and counting all straight votes therefor.

The definite movement for a constitutional convention in Nebraska began about 1897. An overwhelmingly Republican legislature in 1895 had submitted twelve amendments to the constitution. A number of these were designed to give future legislatures power to create new state offices and to fix salary schedules. In order to overcome the requirement that a majority of all the votes cast at the election should be in favor of these twelve amendments, a legislative act provided a special ballot and a separate ballot box in each precinct for the vote upon constitutional amendments—the design being to count only those voting in such ballot boxes. It was an ingenious method of getting around the provision of the constitution which required a majority of all the electors voting to adopt an amendment. It was the expectation that a Republican legislature and Republican state

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officers would canvass the vote and that Republicans would fill the new state positions and receive the new salaries. These amendments were submitted at the general election of 1896. The Bryan movement —fusion between the Populists and Democrats—carried the state that year, electing every state officer and a large majority in both houses of the legislature. Each one of the twelve amendments submitted received a majority of the votes cast upon the proposition. None of them had a majority of those voting for president and state officers at the general election. When the fusion legislature met, a recount of the votes was ordered for the purpose of counting the amendments in and securing officers and salaries for their friends. This gave rise to a violent party controversy, which ended in the defeat of all the amendments, and also ended the efforts to reconstruct the constitution by the separate amendment method, directing future efforts on the part of those sincerely desirous of securing constitutional changes toward the calling of a constitutional convention.

Each legislative session from 1897 to 1917 witnessed a struggle between the progressive and conservative elements in the state upon the calling of a constitutional convention. The larger business interests of the state, especially the railroads and the liquor interests, feared the possibilities of a new constitution and steadfastly opposed the movement in each legislature. They were able to block the movement until the session of 1917. Meanwhile, an initiative and referendum amendment to the constitution had been adopted in 1912, and in 1916 a prohibition amendment. The latter broke the power of the conservative combination of forces, and the legislature of 1917 submitted the proposition for a new constitutional convention. This was approved by the voters at the election of November, 1918. The legislature of 1919 passed an act for the convention and its expenses ordered by the popular vote. The act provided for one hundred delegates, to be chosen at a special election in November, 1919, in the same manner and from the same districts as representatives to the lower house are chosen to the legislature, excepting that candidates should be nominated by petition and placed upon the ballot without party designation.

Freed from the party lines in the selection of members of the constitutional convention the natural division of society into progressive and conservative groups appeared. A "Progressive League" was formed with state-wide membership. A "New Nebraska Federation" was the reply of the conservative element. The lines of division were

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not sharply drawn. In some counties there were no opposition candidates, in others there was no material difference in the personal platforms put out by rival candidates. In still others there was active rivalry both of candidates and of principles. When the smoke blew away it at once became apparent to persons familiar with the state that about forty members chosen could be classed as conservatives, about thirty as progressives, and that the remaining thirty were not easily assignable to either group. The sequel disclosed, however, that a majority were clearly conservative, but some of that majority were not always dependable to follow the leadership of the more pronounced conservatives.

The convention met in Lincoln December 2, 1919. It elected a middle ground Republican as president, a progressive Democrat as vice-president. The policy of the majority as it developed had two leading points:

(1) Few changes in the old constitution, none fundamental so far as framework of government.

(2) Conciliation of rival views and interests so far as possible, to prevent defeat when the amended constitution was submitted to possible vote.

The convention continued in session, with occasional recess, until March 25, 1920, when it completed its work of framing forty-one amendments to the constitution of 1875, and provided for their submission as separate propositions to the voters at a special election to be held September 21, 1920. The convention then took a recess until October 19, 1920, for the purpose of meeting any defects which the discussion of its propositions might develop and also to provide for rewriting the 1875 constitution and incorporating such amendments therein as might be adopted by the people at the September election. For this purpose, a special committee was appointed to act after the results of the election were known.

It was further provided by the convention that women might vote in separate ballot boxes upon the adoption of the amendments submitted. This proposition was strongly opposed by some of leading lawyers of the convention, because at that time the amendment to the Constitution of the United States conferring suffrage upon women had not been ratified by thirty-six states nor incorporated as a part of the federal Constitution. There was also submitted at the special election, Proposal Number 18, conferring equal suffrage on women,

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and it was argued that it was absurd to permit women, excluded by the constitution of 1875 from the general ballot, to vote upon the question of striking out the word "male" from that constitution. Nevertheless, the spirit of the times and the desire to show friendliness toward the women citizens was so strong that the proposition prevailed and women were permitted to vote in separate ballot boxes throughout the state and their votes were duly canvassed.

Every one of the propositions submitted was adopted, forty of them having a majority of both the men and women voting. One of them, number 6, which gave the legislature power to increase the membership in the state senate from thirty-three to fifty members, was defeated by the men voters by over 2000 votes, but approved by the women by over 4000 votes and became a part of the new constitution.

Four changes of first rank were submitted to the people by the convention, viz:

(1) Amendments to the constitution when proposed by the legislature will hereafter be adopted by a majority of those voting on the question—provided the affirmative vote equals 35 per cent of the total vote cast.

(2) Providing that new executive officers may hereafter be created by a two-thirds vote of the legislature.

(3) Permitting classification of intangible property for taxation and the levy of other taxes than property taxes. (This is to permit a state income tax).

(4) Providing for the creation of an industrial commission to administer laws relating to labor disputes and profiteering.

Each of the above provisions changes or permits change in the larger aspects of government. Of these the most important no doubt is that which makes the constitution amendable through the method of legislative submission by a majority of the electors who have enough intelligence and interest to vote for or against the proposition submitted.

In the rank of second importance among the changes made may be included the following:

(5) The English language is made the official language of the state and the only medium of instruction in common schools public and private.

(6) Alien property rights are made subject to regulation by the legislature instead of being guaranteed the same treatment as those of resident citizens.

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(7) Election by single districts of members of the legislature, regents of the state university and judges of the supreme court outside of the chief justice.

(8) Coöperative corporations may be organized upon the basis of one man one vote.

(9) Minimum wage and conditions of employment of women and children may be established by the legislature.

(10) School lands may be sold only at public auction. The legislature may provide by law for such sale. (The present law forbids their sale in any manner except small tracts for special purposes).

As significant as anything were the negative results of the convention —the subjects refused submission to the electors. Among these deserving mention are the following:

(1) Short ballot and commission form of state executive government. The commission form of state executive government was rejected by a test vote 36 for and 57 against. The short ballot, providing practically for a governor who should appoint the other executive officers was rejected without a roll call, apparently not having ten members willing to demand a roll call on that question.

(2) Initiative and referendum. A test vote on the question of making the required number of petitioners 7 per cent instead of 10 per cent was carried by a vote of 48 for and 36 against. The principal argument offered for reducing the percentage was the doubling of the vote by the addition of women to the electorate. This was one of the significant test votes, showing that a considerable number of conservative members of the convention had been converted to the soundness of the initiative and referendum principle and were not willing to make its application more burdensome by the expense of securing petitioners.

(3) The question of taking private property for private use gave rise to one of the most interesting debates of the convention. The practical question involved was that of making it possible to condemn right of way for roads, irrigation or draining ditches across land in order to benefit other tracts of land. Upon a motion to indefinitely postpone the vote was 37 for and 58 against. The matter was then referred to a committee and finally omitted from the amendments submitted by a test vote of 34 for to 47 against.

(4) Upon test vote permitting classification of tangible property for taxation the vote was affirmative 33, negative 57. The fear of "single tax" legislation which would make land holding unprofitable

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was a strong factor here. Many of the members of the convention own large tracts of farm land and did not hesitate to express their fears.

Three other questions—subjects of heated controversy today—were strongly debated by the convention and refused submission to the people; jury trial in contempt of court cases; land ownership; wider range of state ownership.

Jury trial in constructive contempt cases was rejected on test vote—28 for, 66 against.

The land ownership question took the form of a proposal for a state revolving fund to provide for purchase of land by the state and its sale on long time to persons wishing to avail themselves of the privilege. This proposal was a favorite idea of Mr. Charles H. Cornell, a banker of Valentine, a strong Republican and classified as a conservative. He read a carefully prepared speech covering the subject of land legislation in other countries. The proposition was defeated—yeas 36, nays 52.

Extension of state ownership came up in the form of an amendment to that part of the Nebraska constitution which limits state debt to $100,000. Mr. Sughroue, a non-partisan league farmer from Red Willow County, proposed the provisions of the present New York state constitution, permitting state debt up to two per cent of assessed valuation. This was rejected by a vote of 21 for and 70 against. Another amendment by Mr. Peterson of Lancaster County, a leading lawyer and generally classified as a conservative or moderate progressive, providing for an arrangement similar to that by which a city now guarantees the payment of district paving bonds and undertakes the collection of taxes for them, was at first approved. Then the whole subject was referred back to a special committee of seven, by a vote of 54 to 35. The committee of seven struck out the vital parts of the amendment, and the convention then threw the whole subject overboard, leaving the present limitation on state debt.

A proposal for a one house legislature was championed by Mr. Norton of Polk County, a former Populist and active in farmer's organizations. A resolution by him favoring the separate submission of such a proposition was defeated by a vote of 43 to 43.

Summarizing the work of the Nebraska Constitutional Convention it may be said:

1. That conservative elements dominated.

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2. That the debates and test votes indicate growth of sentiment for reconstruction of state government.

Nebraska is a composite conservative state. One of the factors in this is the fact that the population is about one half of long time American ancestry. The other half is composed about equally of persons of German, Slavic and Scandinavian ancestry, either born in Europe or children of those so born. Such a population moves slowly toward agreement upon changes in government.

The conflict between localism and centralization is strenuous in Nebraska. Upon vital points, such as roads and schools, administration tends toward the state capital. Taxes increase (they have more than doubled on the average Nebraska farm in the past three years, while the tax-paying power of the farm product is less than half of what it was a year ago). As one Nebraska farmer said: "If this process keeps on our part in the government in a few years will simply be paying taxes."

The campaign on the proposals submitted lacked interest. Only about one-sixth of the voters—men and women—went to the polls. There was little press discussion. Most of the amendments were regarded as unimportant and that feeling extended to the others.

The stenographic reports of the debates is in print, forming two large volumes of 1500 pages each.

Pursuant to its adjournment on March 25, the constitutional convention reassembled in final session in Lincoln, Octobr 19, 1920. A revised text of the constitution with the approved amendments incorporated was reported by I. L. Albert, chairman of the committee on phraseology and arrangement, and this was approved by the convention as the official text of the Nebraska constitution. After the transaction of some incidental business, the convention adjourned *sine die*. In accordance with its action, the secretary of state has prepared and published the revised text of the Nebraska constitution in pamphlet form. It is also printed in the Nebraska *Blue Book* for 1921 and in other state documents.

ADDISON E. SHELDON.

Lincoln, Nebraska.

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VOTE ON CONSTITUTIONAL AMENDMENTS, SEPTEMBER, 1920

AMENDMENT NUMBER	MEN		WOMEN		TOTAL		TOTAL VOTE
	For	Against	For	Against	For	Against	
1	48,743	15,400	15,807	2,434	64,550	17,834	82,384
2	49,619	13,363	16,302	1,860	65,921	15,223	81,141
3	52,111	2,089	17,515	1,535	69,626	13,624	83,250
4	42,379	16,862	13,667	2,972	56,046	19,734	75,780
5	45,185	16,899	14,309	3,183	59,494	20,082	79,576
6	30,153	32,266	10,930	6,472	41,083	38,738	79,821
7	42,239	17,094	14,094	2,659	56,333	19,753	76,086
8	39,425	15,105	13,048	2,309	52,473	17,414	69,887
9	47,973	12,909	15,602	1,594	63,575	14,503	78,078
10	49,250	13,996	16,149	1,965	65,399	15,961	81,360
11	51,359	9,910	16,154	1,254	67,513	11,164	78,677
12	44,439	11,442	14,396	1,378	58,835	12,820	71,655
13	45,391	14,168	15,093	1,942	60,484	16,110	76,594
14	43,653	15,542	14,483	2,254	58,136	17,796	75,932
15	42,751	13,844	13,583	2,064	56,334	15,908	72,242
16	49,836	10,885	15,306	1,559	65,142	12,444	77,586
17	44,073	17,051	12,839	4,302	56,912	21,353	78,265
18	47,471	14,462	18,012	954	65,483	15,416	80,899
19	54,763	7,605	17,216	1,081	71,979	8,686	80,665
20	49,923	10,505	16,117	1,356	66,040	11,861	77,901
21	51,282	11,958	15,261	2,445	66,543	14,403	80,946
22	42,119	17,235	12,743	3,973	54,862	21,208	76,070
23	54,725	13,242	15,270	2,123	60,995	15,365	76,360
24	49,873	11,734	17,040	1,465	66,913	13,199	80,112
25	44,015	14,723	15,009	2,361	59,024	17,084	76,108
26	44,903	13,489	14,202	2,072	59,105	15,561	74,666
27	52,492	10,793	16,411	1,798	68,903	12,591	81,494
28	48,454	12,861	15,009	1,831	63,463	14,692	78,155
29	41,771	15,371	13,768	1,994	55,539	17,365	72,904
30	47,658	11,218	14,118	1,769	61,776	12,987	74,763
31	45,250	13,495	13,821	2,047	59,071	15,542	74,613
32	47,828	9,721	14,254	1,307	62,082	11,028	73,110
33	44,735	11,648	13,847	1,808	58,582	13,456	72,038
34	49,612	8,608	14,831	1,093	64,443	9,701	74,144
35	49,265	8,388	15,088	1,056	64,353	9,444	73,797
36	53,576	6,502	16,285	875	69,861	7,377	77,238
37	51,221	9,095	16,792	1,223	68,013	10,318	78,331
38	43,219	18,263	14,285	3,210	57,504	21,473	78,977
39	45,735	12,736	14,509	1,919	60,244	14,655	74,899
40	46,544	13,254	14,849	2,256	61,393	15,510	76,903
41	40,982	12,721	13,712	1,541	54,694	14,262	68,956

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Subjects of Proposals submitted by the Constitutional Convention of 1920

No. 1. Authorizes five-sixths jury verdict in civil cases.
No. 2. Permits regulation by law of property rights of aliens.
No. 3. Declares English official language of the state and requires common school branches taught therein.
No. 4. Initiative and referendum. Reduces percentages in number of signatures required.
No. 5. Separate district legislative apportionment.
No. 6. Permits increase of state senators from 33 to 50.
No. 7. Increases legislative salary from $600 to $800.
No. 8. Majority of all members elected (yea and nay vote) required to adopt conference reports between two houses. First and second reading of bills by title only.
No. 9. Prohibits appointment of members of legislature to state offices.
No. 10. Prohibits raising salaries during term of office.
No. 11. Reserves mineral rights in state lands.
No. 12. Eliminates obsolete 1875 legislative apportionment.
No. 13. New executive offices may be created by two-thirds vote of legislature; excutive budget; a board of pardons; five years residence required for eligibility to office of governor.
No. 14. Creates office of tax commissioner.
No. 15. New jurisdiction and procedure of courts.
No. 16. Concurrence of five judges of the supreme court to declare laws unconstitutional.
No. 17. Election of judges of the supreme court by districts.
No. 18. Woman suffrage.
No. 19. Soldier suffrage.
No. 20. Temporary school fund—distribution.
No. 21. Prohibits sale of school lands except at public auction.
No. 22. Election of university regents by districts.
No. 23. Prohibits state aid to sectarian institutions.
No. 24. Raises age for commitment to industrial schools from 16 to 18.
No. 25. Provides board of education for normal schools.
No. 26. Requires uniform and proportional taxes on tangible property and franchises; permits classification of other property and permits taxes other than property taxes.
No. 27. Tax exemptions, including $200 of household goods to each family; forestry exemptions changed.
No. 28. County tax limit fifty cents on one hundred dollars actual valuation.
No. 29. Changes of county boundaries.
No. 30. Public utility corporations to report to railway commission.
No. 31. Prohibits consolidation of competing public utility corporations without permission of railway commission.
No. 32. Regulates stocks and dividends of public utility corporations.
No. 33. Permits metropolitan cities to adopt present charter as home rule charter.

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No. 34. Insures coöperative features in certain associations and permits limitation of shares and voting. Regulates foreign corporations. Stocks and bonds to issue only for actual value.
No. 35. Defines priority rights in water.
No. 36. Protects public rights in use of water power.
No. 37. Minimum wage and conditions of employment of women and children.
No. 38. Permits creation of industrial commission to administer laws relative to labor disputes and profiteering.
No. 39. Provides that amendments to the constitution submitted by the legislature shall be adopted by a majority voting on the question if the affirmative vote be equal to 35 per cent of the total vote cast.
No. 40. Fixes increased salaries of state officers including judges of the supreme and district courts, effective until changed by the legislature (not oftener than once in eight years).
No. 41. Eliminates obsolete provisions and provides a continuing schedule.

The Tenth New Hampshire Convention. Provision was made in 1915 for placing before the voters of New Hampshire the question of calling a constitutional convention; the voters gave their approval in 1916, the convention was elected in 1917, and met for the first time in June, 1918. After organization and one day's debate the convention decided to adjourn awaiting the quieter times of peace, and from June 7, 1918, to January 13, 1920, all of its work was suspended. Upon reconvening; the convention devoted its attention almost exclusively to certain matters prepared by its leaders and adjourned on January 30, 1920, after a session of only seventeen working days.

Subsequent to the failure of all of its proposals at the polls November 2, 1920, the convention met for a third session on January 28, 1921[1], and voted to resubmit three of the defeated articles and a new proposition. These were in turn rejected by the voters March 8, 1921.

The convention was elected to deal with two main propositions, one relating to finance, the other concerning the reduction of the size of the house of representatives. The interpretation by the state supreme court of the constitutional rule of proportion in the levy of taxes has made it impossible for the legislature to tax growing wood and timber at a less rate than other property, has thrown an income tax out of the realm of practical matters, and, until the legislature in 1919 took a leap in the dark[2], crippled the employment of an inheritance

[1] Adjournment in January 1920 had not been *sine die*, but at the call of the president of the convention, or the governor of the state. Honorable Albert O. Brown, president of the convention, was elected governor, November 1920.

[2] Opinion of the Justices, 76 N. H. 597 (1911); *Laws*, 1919, ch. 37.

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tax. The state has consequently been forced to rely chiefly on the general property tax for its revenue, and, unable to escape the enormous pressure for increased expenditures, has long since found the general property tax inadequate. The state stands in urgent need of additional sources of revenue. The convention of 1912 recommended to the voters amendments empowering the legislature specially to assess, rate, and tax growing wood and timber and money at interest, to impose a graduated income tax, and to correct an ambiguity in the inheritance tax amendment adopted in 1903. These propositions were rejected by the voters. There was however a strong sentiment in favor of an income tax and an inheritance tax graduated according to the amounts passing; and the recent convention approved after a very brief consideration proposed amendments authorizing both a graduated income tax and a graduated inheritance tax.

After accepting a proposed amendment establishing the item veto, the convention proceeded to consider the perennial New Hampshire problem of reducing the size of the house of representatives. An ingenious scheme received the approval of both town and city delegates. The size of the house was to be diminished from its present figure, about 408[3], to a number not less than 300 nor more than 325. The existing geographical basis of representation, the town and ward, was to be retained. Representation however was to be in proportion not to population, but to the average total number of ballots cast at the last two presidential elections preceding any apportionment. A reapportionment was to take place every twelve years.

The object of this unusual basis of representation was to reduce the house at the expense of the cities so far as possible. In many New Hampshire cities there are considerable numbers of aliens whose influence in enlarging city representation it was sought to eliminate. Estimates indicated that these cities would furnish about 70 per cent of the proposed reduction. The sentiments of the city delegates were assuaged by the argument that the process of Americanization now under way would eventually convert these aliens into citizens, and correspondingly enlarge the city quota of representatives.

In addition to these amendments the convention proposed to eliminate from the constitution the words "Protestant," and "rightly grounded on evangelical principles;" to abrogate the privilege of conscientious objectors to pay a money equivalent for his military

[3] This number varies slightly from session to session, owing to the variable representation of certain small towns.

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services; and to strike out the requirement that pensions shall never be granted for more than one year at a time.

The temper of the convention was decidedly conservative. Attendance was poor and, as is usual in New Hampshire political bodies, leadership, organization and direction were carried on by a relatively small number. Very few measures were brought to the attention of the convention, and of these only a small proportion received serious consideration. The paraphernalia of hearings, investigations and special reports was conspicuously absent. The greatest single failure of the convention was its refusal to modify the present method of amending the constitution.[4] The existing system prevents the legislature from proposing amendments, and reserves this initiative to a periodic convention meeting once in seven years. For ratification of proposals an affirmative vote of two thirds of the qualified voters voting on the proposition is required. The disastrous results of this requirement are to be observed in the results of the polling November last. The results as announced from the office of the secretary of state follow:

Question 1 (Income Tax)	Yes 46,430	No 30,364
Question 2 (Inheritance Tax)	Yes 45,415	No 24,222
Question 3 (Item Veto)	Yes 45,634	No 26,195
Question 4 (Reduction in size of House of Representatives)	Yes 48,598	No 28,121
Question 5 (Conscientious Objectors)	Yes 35,932	No 31,509
Question 6 (Protestant Religion)	Yes 35,172	No 42,322
Question 7 (Pensions)	Yes 44,456	No 31,995

Not one of the amendments was adopted although all but question six secured a substantial majority. The financial situation of the state remained in the same precarious condition; the size of the house of representatives promises to be considerably enlarged consequent upon the impending decennial reapportionment.

Although the members of the convention had not expected to reconvene, the situation was thought serious enough to warrant another attempt to carry through some of the amendments. The convention was called together by its president on January 28, 1921, for a session lasting a single day, and voted to submit four propositions. The first two, authorizing income and graduated inheritance taxes, were substantially identical with the recently defeated amendments. The

[4] In view of the popular vote, however, it is extremely unlikely that any attempt to simplify the method of amendment would have been accepted.

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third proposed reduction of the lower house to a number not less than 300 nor more than 325, the basis of representation to be population, instead of the average number of qualified voters voting at presidential elections, as had been proposed at the preceding session of the convention. The fourth amendment proposed to strike out the obsolete sex requirement for voting and to provide that women may hold office.

The voting was lighter than at the preceding election in November; but apparently none of those who opposed tax reform were absent from the polls. The opposition to the income tax rolled up more than 3000 more votes than in November, while over 5000 additional votes were cast against the inheritance tax amendment. The results follow.

Question 1 (Income Tax).....	Yes 21,580	No 33,819
Question 2 (Inheritance Tax).....	Yes 23,354	No 29,473
Question 3 (Reduction of size of House).....	Yes 30,275	No 23,271
Question 4 (Women office holders).....	Yes 30,285	No 24,142

In explanation of the defeat of these tax amendments it has been suggested that the vote was taken at a bad psychological moment, when the federal tax returns were being filed. The voters were alarmed moreover at a deficit of $250,000 incurred during 1920 as the result of an educational act passed in 1919, and were further aroused by reports that the legislature was delaying adjournment, hoping to be able to appropriate additional sums in view of enlarged sources of revenue. In addition notice must be taken of the considerable number of New Hampshire citizens who consistently vote No on any proposition.

The defeat of the tax amendments leaves the state in a deplorable financial condition. The general court is reported to be cutting appropriations to the bone, and programs of construction will perforce languish. Meanwhile, in the words of the *Granite Monthly*, the damage caused by the enforced curtailment may be well nigh irreparable.

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JUDICIAL DECISIONS ON PUBLIC LAW

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Compulsory Labor—Constitutionality of State Statute Punishing as Vagrants All Able-bodied Men Not Engaged in Useful Work Regardless of Financial Ability for Self-Support. Ex-parte Hudgins (West Virginia, May 20, 1920, 103 S. E. 327). In 1917 a statute was enacted by the West Virginia legislature punishing as a vagrant every able-bodied male resident of the state between the ages of sixteen and sixty, except students during school term, who should fail to engage for thirty-six hours per week in some lawful and recognized labor or business. This obligation to work was imposed regardless of the financial ability of any person to support himself and his dependents without it. Punishment was provided for the vagrancy thus defined in the form of a fine and imprisonment at hard labor to be performed on the public roads. The statute was to continue in force until six months after the termination of the war with Germany. The prisoner in this case was honorably discharged from the army in 1919 after a year of service overseas and was arrested for violation of the statute in April, 1920. The court held the act to be an arbitrary and unjustifiable interference with personal liberty and therefore a denial of due process of law. The purposes for which the restraints upon personal liberty set up in the act are imposed are not purposes which are generally comprehended within the police power of the state. It could not be justified as a general statute to protect the state against vagrancy because it applied to persons in no danger of becoming public charges and was limited in duration to the period of the war and six months thereafter. It could not be justified as a war measure because the state as such has no general war power and this act does not relate to anything concerning which the state may properly exercise its military authority. Finally it is held to be clearly within the spirit if not the letter of the Thirteenth Amendment and the legislation enacted for the enforcement thereof.

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Constitutionality of Statute as Determined by Reasonableness—Clause Authorizing Legislature to Enact Wholesome and Reasonable Laws Construed as Limitation upon Legislative Power. Hodge v. City of Manchester (New Hampshire, June 1, 1920, 111 Atl. 385). The facts in this case are of little interest. They raise the question of the validity of a state providing that lands dedicated for highway purposes shall be discharged from public servitude if not used for public travel within twenty years of such dedication. The court examines the question of constitutionality in the light of the provision of the constitution of New Hampshire (pt. 2, art. 5) which provides that "full power and authority are hereby given . . . . to the said general court . . . . to make, ordain, and establish all manner of wholesome and reasonable . . . . laws . . . . so as the same be not repugnant . . . . to this Constitution." The court clearly regards this clause of the constitution as a restriction upon the legislative power of the legislature, but declares that the test as to whether or not that limitation has been violated "is to inquire whether all fair-minded men must agree that enacting this chapter was an unreasonable exercise of legislative power." The application of this test to the statute in question results in upholding its validity.

It would seem from this case that the courts of New Hampshire are endowed with power to invalidate legislation on the grounds of unreasonableness even though it does not violate any specific constitutional provision. While the test set up by the court for determining reasonableness is a strict one, it is, nevertheless, of judicial origin and subject to judicial revision. The case is interesting in that the court did not raise the question of reasonableness under the due process clause of the state constitution (pt. 1, art. 15) as would be done in most jurisdictions, but chose rather to construe a clause conferring the power to pass reasonable laws as judicially enforceable prohibition against the passing of unreasonable laws. The doctrine of the case is discussed at greater length in the earlier case of Carter v. Craig (90 Atl. 598), decided in 1914.

Court of Industrial Relations—Constitutionality of Statute Creating. State v. Howat (Kansas, July 19, 1920, 191 Pac. 585). By act of January 24, 1920, a court of industrial relations was created in Kansas. This court is composed of three members appointed by the governor and is empowered to investigate with the aid of compulsory process any industrial controversy which in its judgment threatens to imperil

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or destroy the efficiency or continuity of service of a wide range of industries declared by the statute to be affected with a public interest. These industries include the production and distribution of food, clothing, and fuel as well as the recognized types of public utilities and common carriers. The court is authorized after its investigation to issue orders to end the controversy and these orders which may extend to the regulation of wages, hours of labor, and general working conditions are binding upon the parties unless set aside as unreasonable by the supreme court of the state, to which an appeal can be made.

The defendants in the present case were imprisoned for contempt for refusing to obey an order of the district court to give evidence before the court of industrial relations which had called them as witnesses. They set up in defense the invalidity of the statute upon numerous grounds. The court held that the most important and interesting questions regarding the constitutionality of the act could not be raised by the defendants since they could attack the validity of only those sections which could affect their rights in the present litigation. These sections were held to be separable from the rest of the act and therefore unaffected by any possible invalidity of other portions of it. The parts concerning the defendants were all upheld. The power of the district court to order the defendants to testify before the court of industrial relations was sustained on the ground that the new tribunal was not itself a judicial body and upon the authority of Interstate Commerce Commission v. Brimson (154 U. S. 447) could be authorized to rely upon the regular courts for aid. The claim that the guarantee in the state constitution against self-incrimination was infringed by the act was rejected on the ground that the defendants had not as yet been asked to answer any questions and that such objection was prematurely raised. The power of the governor to act as the sole judge of the existence of an emergency authorizing the calling of an extra session of the legislature was upheld against the contention that the session which passed the statute was unlawfully called. The title of the act was declared not defective. With practically no argument the statute was held not to be invalid on the ground of merging legislative, executive, and judicial powers in the court of industrial relations. The industrial court was declared to be distinguishable in this respect from the Kansas court of visitation created by act of 1898 and held unconstitutional because of such comingling of powers. See Western Union Telegraph Co. v. Myatt (98 Fed. 335); State v. Johnson (61 Kans. 803). The court does not make clear, however, what the distinction is. Finally, it

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is denied that the powers conferred upon the industrial court are in conflict with congressional statutes applicable to the same subject matter, although it is recognized that such statutes form limitations which the court of industrial relations must keep in mind in the exercise of its powers. It will be seen from this analysis that the important question whether the industrial court act is a legitimate exercise of the police power of the state in the light of the Fourteenth Amendment remains to be decided.

Declaratory Judgments—Power of Legislature to Impose Non-Judicial Duties on the Courts. Anway v. Grand Rapids Ry. Co. (Michigan, September 30, 1920, 179 N. W. 350). By a statute passed in 1919 any court of record in Michigan was authorized to render declaratory judgments. The act provided that "the court may make binding declarations of rights whether any consequential relief is or could be claimed, or not, including the determination, at the instance of any one claiming to be interested under a deed, will, or other written instrument, of any question of construction arising under the instrument and a declaration of the rights of the parties interested." The policy of the act was, in the words of its author, to provide a system of "remedial law" which would require the courts "to offer remedies in advance of the happening or even of the threat of any wrongful act, and to authoritatively advise parties as to what their legal rights may be in the circumstances in which they find themselves." In the present case the plaintiff asks the court to advise him whether the defendant company by whom he is employed as a conductor may lawfully permit him to work more than six days in any consecutive seven days in view of the provisions of a statute regulating that matter. A majority of the court held that the statute requiring it to render declaratory judgments was unconstitutional as conferring non-judicial power upon the court. After a most elaborate examination of the cases in which attempts have been made to require courts to render advisory opinions or to render decisions which were not to be binding upon the parties the court concludes that a proceeding seeking a declaratory judgment, if not strictly a "moot case," at least has all the objectionable characteristics of a "moot case" and imposes on the court a duty which is non-judicial. A vigorous dissenting opinion takes the position that the duty imposed by the act is judicial in character.

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Elections—Absent Voting—Power of State to Authorize Absent Voting for State and Federal Officers. In re Opinion of The Justices (New Hampshire, March 16, 1921, 113 Atl. 293). The opinion of the court is here asked upon the question of the validity of a proposed statute authorizing absent voting for state officers, members of both houses of Congress, and presidential electors. The court discusses these various points separately and reaches different conclusions in connection with the different classes of officers. Relying upon the authority of an advisory opinion given upon the same question in 1863, the court declared that absent voting for state officers is forbidden by the constitution of New Hampshire, which is construed to require the actual presence of every voter at the polls or meeting at which the election is held. The legislature, however, may allow absent voting for presidential electors, inasmuch as the Constitution of the United States specifically provides that such electors shall be chosen in each state "as the Legislature thereof may direct." In the case of elections for members of the two houses of Congress the case is not so clear. The court frankly states that whether absent voting may be allowed in such elections is a question which must in the last analysis be finally determined by the houses of Congress themselves in passing upon the qualifications of their members. But even though this is true the court does not feel itself precluded from expressing its views upon the matter. The conclusion reached is that there is such doubt as to the validity of absent voting in congressional elections that the court is "unable to advise the Legislature that the proposed legislation would be valid." This conclusion rests primarily upon the fact that the "qualifications" of those voting for members of Congress must be the same as those of electors of the lower house of the state legislature. Presence at the polls may be regarded as a qualification for voting in a state election and absent voting would thereby be ruled out. It is also suggested that the absent voter who marks his ballot and sends it in before the day of election does not vote on the day of election but before that time, and this constitutes a possible violation of the requirement of the congressional statute fixing a uniform date throughout the country for the holding of congressional elections.

Elections—Constitutionality of Primary Election Law Requiring of Candidate Affidavit That He Will Support Party. Harrington v. Vaughn (Michigan, August 12, 1920, 179 N. W. 283). By a statute enacted in 1919 it is provided that the name of no candidate shall be printed upon

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any primary election ballot unless such candidate files an affidavit stating that "he is a member of a political party, naming it, and that he will support the principles of that political party of which he is a member, if nominated and elected; that he is not, and will not become a candidate for the same or any other office on any other party ticket at said primary election." While admitting that this statute was undoubtedly enacted for the purpose of protecting the purity of elections; the court held that it was in violation of the clause of the constitution prescribing an official oath and declaring that "No other oath, declaration or test shall be required as a qualification for any office or public trust." The court, in passing, makes this interesting comment: "It may be well to inquire in what way it will be practicable for a judicial officer to discharge the duties of his office according to the principles of the political party with which he is affiliated. Is it not one's duty as a judicial officer, when litigation is before him, to know no political party, but to conduct the litigation without taking into consideration partisan politics?"

Judicial Review of Legislation—Requirement of Concurrence of Extraordinary Majority of Court to Declare a Statute Void. Daly v. Beery (North Dakota, April 20, 1920, 178 N. W. 104); Barker v. City of Akron (Ohio, April 2, 1918, 121 N. E. 646). These cases are of interest only in showing the operation of the North Dakota and Ohio constitutional provisions that statutes may not be invalidated by a court unless a specified majority of the members concur in the decision. The North Dakota supreme court is composed of five members and four members must concur in order to declare a statute void. In the present case one judge was disqualified and did not sit. The other four were evenly divided in their opinions as to the constitutionality of the statute before the court. Since under these circumstances it would obviously be impossible to secure the concurrence of four judges in holding the statute invalid it was not felt to be necessary to call in a district judge to sit in place of the disqualified judge. The statute was upheld. The Ohio rule is that six members of the present court of seven must concur to hold an act void in case the statute has been upheld by the court of appeals. The statute in this case had been upheld by the lower court. Four judges of the supreme court regarded it as unconstitutional while three believed it valid. It was therefore sustained.

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Police Power—Constitutionality of Statute Regulating Rents and Protecting Tenants in Certain Cases from Eviction. People v. La Fetra (New York Court of Appeals, March 8, 1921, 130 N. E. 601). This case raises the question of the constitutionality of the New York housing laws passed in 1920. For the purpose of meeting in part the housing emergency, these laws provided that the rights of landlords to evict their tenants should be wholly suspended until November 1, 1922, provided the tenants were unobjectionable and paid a "reasonable rent." The presumption seems to be created by the act that any rent in excess of that charged during the preceding year is unreasonable and oppressive. The court upheld the validity of this law in a vigorous and interesting opinion.

In the first place, the statute does not deprive the landlord of his property without due process of law, since it is a legitimate exercise of the police power of the state. "The police power is a dynamic agency, vague and undefined in its scope, which takes private property or limits its use when great public needs require, uncontrolled by the constitutional requirement of due process." It is declared that a great public need does exist to justify the drastic restriction of private rights involved. The distressing character of the housing crisis in the City of New York is reviewed. "It is with this condition," declares the court, "and not with economic theory, that the state has to deal in this emergency." It goes on to say that "although emergency cannot become the source of power, and although the Constitution cannot be suspended in any complication of peace or war, an emergency may afford a reason for putting forth a latent governmental power already enjoyed but not previously exercised." It is said to be no objection to such an exercise of the police power that it is without precedent, since changing social and economic conditions call for changes in the laws which govern them.

In the second place, the act is declared not to be in violation of the guarantee of the equal protection of the laws. Would-be tenants out of possession are not discriminated against unduly by the protection afforded to those who are in possession. The law cannot provide homes for all and the classification thus established is not arbitrary. Nor are the landlords singled out for the restrictions of the statute subjected to arbitrary discrimination. "One class of landlords is selected for regulation because one class conspicuously offends." In the third place, the contention that the law works the impairment of the obligation of contracts is disposed of along conventional lines by

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alluding to the well-established doctrine that the contract clause of the United States Constitution does not and cannot act as a limitation upon the legitimate exercise of the police power of the state. In conclusion, the court suggests an interesting standard by which to determine whether a business may be regarded as affected with a public interest and subject to regulation by the state. It says: "The conclusion is, in the light of present theories of the police power, that the state may regulate a business, however honest in itself, if it is or may become an instrument of widespread oppression . . . .; that the business of renting homes in the city of New York is now such an instrument and has therefore become subject to control by the public for the common good; that the regulation of rents and the suspension of possessory remedies so far tend to accomplish the purpose as to supervene the constitutional inhibitions relied upon to defeat the laws before us."

It should be noted that the statute involved in this case has been upheld by the United Supreme Court (Brown Holding Co. v. Feldman, 65 L. Ed. 539, April 18, 1921), but the opinion written by Mr. Justice Holmes in that case is very brief and does not attempt to deal with many of the points raised in the case here commented upon.

Police Power—Segregation of Commercial and Industrial Buildings from Residences—Restrictions upon Construction or Use of Buildings in Designated Zones. In re Opinion of the Justices (Massachusetts, May 20, 1920, 127 N. E. 525). Article 60 of the amendments to the constitution of Massachusetts provides that "the General Court shall have power to limit buildings according to their use or construction, to specified districts of cities and towns." Under the authority thus conferred the legislature drafted a bill authorizing towns and cities to pass ordinances establishing zones within which buildings used for commercial and industrial purposes shall be confined and forbidding their erection in zones set apart for residential purposes. Similar zones may also be established for the purpose of segregating tenement houses and provision is made for regulating the construction and use of buildings in districts established in towns and cities. All these provisions are to be carried out "in such manner as will best promote the health, safety, convenience, and welfare of the inhabitants, will lessen the danger from fire, will tend to improve and beautify the city or town, will harmonize with its natural development, etc." The court was asked to give its opinion as to the validity of such a statute, and replied that

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it is free from constitutional objection. After a brief review of cases in which municipal zoning regulations for various purposes have been upheld the court concludes that the statute in question is within the broad conception of the police power created by the amendment.

The statute is held not to be void by reason of its obvious purpose to make possible the enhancement of the beauty of restricted sections of the municipalities. This esthetic purpose is held to be a subordinate one and not the primary object of the statute. It is interesting to note that the court still stands firm on the orthodox doctrine that the police power may not be used for esthetic purposes. It says: "Enhancement of the artistic attractiveness of the city or town can be considered in exercising the power conferred by the proposed act only when the dominant aim in respect to the establishment of districts based on use and construction of buildings has primary regard to other factors lawfully within the scope of the police power; and then it can be considered not as the main purpose to be attained, but only as subservient to another or other main ends recognized as sufficient under Amendment 60 and the general principles governing the exercise of the police power." The various classifications permitted by the statute are not so unreasonable as to work any denial of the equal protection of the law. Nor is the act in violation of the due process clause of the Fourteenth Amendment. After a careful review of a long list of federal authorities the court concludes that it is not on its face in violation of any of the principles thus far announced by the Supreme Court in its interpretation of due process of law, and points out that it is impossible to say that the proposed zoning regulations will not promote the general welfare and safety by lessening dangers incident to fire, disorder, traffic congestion, contagion and other evils caused or promoted by crowded conditions in towns and cities.

Proportional Representation—Constitutionality of the Hare System. Wattles v. Upjohn (Michigan, September 30, 1920). In 1918 the city of Kalamazoo adopted a home rule charter in which was embodied the Hare or "single transferrable vote" system of proportional representation as the method of selecting the city commission. This case holds that method of conducting an election to be in violation of the state constitution. The opinion of the court is interesting and informing. It contains considerable data relating to the history of proportional representation. It points out the fact that the principle of proportional representation is embodied in several different schemes or sets

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of rules regarding the relative merits of which there is wide difference of opinion. In fact a good deal of space is occupied in showing that although the plan is by no means new its followers have not made rapid progress in securing the widespread acceptance of it. It seems very clear that the court itself does not approve of proportional representation on grounds of general policy. The Kalamazoo charter provisions are held to be in violation of the constitutional provision denying to cities and villages the right to abridge the right of elective franchise. A plan of voting under which the elector is allowed to cast a single first choice vote and then indicate successive choices for as many other candidates as he pleases is held to violate the constitutionally guaranteed right to vote for a candidate for each office to be filled and to have votes so cast be of equal weight with the votes cast by every other elector. In its view that the constitution guarantees to each voter a vote of equal weight for each office to be filled the court is supported by authority of cases invalidating provisions for preferential and cumulative voting. See State v. Constantine (42 Oh. St. 437), Maynard v. Board of Canvassers (84 Mich. 228), Brown v. Smallwood (130 Minn. 492).

Recall of Judicial Decisions Invalid under Federal and State Constitutions. People v. Western Union Telegraph Co. (Colorado, April 4, 1921, 198 Pac. 146); People v. Max (Colorado, April 4, 1921, 198 Pac. 150). These cases are of considerable interest since Colorado is the only state which has adopted the system of recall of judicial decisions and these are the first cases in which the constitutionality of that system has been called in question. The provisions in the constitution of Colorado relating to the recall of decisions went into operation in January, 1913. The essential features of the plan are as follows: First, no court in the state except the supreme court has power to declare any state or municipal law void as in violation of either state or federal constitution; second, no decision of the supreme court invalidating a state or municipal law under federal or state constitutions shall go into effect until sixty days after the date on which it is rendered; third, during this sixty-day period five per cent of the voters of the state may file a petition the effect of which is to require that the law thus invalidated shall be submitted to a vote of the people at a general or special election; fourth, if the law thus submitted is approved by a majority of those voting thereon "it shall be and become the law of this state notwithstanding the decision of the Supreme Court."

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The Western Union Telegraph Company case arose primarily on the question whether the state district court could be forbidden to declare a state law void as violating the Constitution of the United States. The defendants were charged with violating the "Anti-Coercion Act" by discharging an employee on the ground of trade union membership. A statute similar in character had been held void by the United States Supreme Court in Coppage v. Kansas, 236 U. S. 1, and the trial court declared the Colorado act invalid. On writ of error the supreme court held that no provision of the state constitution could take away from any state judge the right and duty imposed by Article VI of the Constitution of the United States to enforce the constitution, laws, and treaties of the United States as the supreme law of the land, "anything in the constitution or laws of the state to the contrary notwithstanding." Any other holding would recognize the right of the people of the state of Colorado to nullify the provisions of the federal Constitution. The court also held that its own decision sustaining the trial court and declaring the "Anti-Coercion Act" void must go into effect immediately and that the provisions of the state constitution subjecting that decision to a sixty day delay and to possible reversal by popular vote were void and without effect. The people of the state of Colorado are wholly without authority to amend the Constitution of the United States by giving effect to state laws which are in conflict with its provisions, nor can they suspend the operation of the federal Constitution for a period of sixty days.

In the Max case a somewhat similar set of facts was presented, but the state law in question was declared void by the trial court as in violation of the state constitution instead of the federal Constitution. The supreme court held here that the provisions relating to the recall of decisions based on the federal Constitution were inseparable from those relating to the recall of decisions invalidating acts under the state constitution. Since the sections were indivisible the decision in the Western Union Telegraph case would control here. But the court went further and held that the sections providing for the recall of decisions were in violation of due process of law. The general effect of the provisions is to prevent the courts from giving due consideration to what may be a vital part of a man's defense, clearly a denial of due process. The court sums up its views on this point in striking language. "If an unconstitutional statute, creating a crime unknown to the common law, may be passed by the legislature; if a citizen may be put upon trial thereunder; if the trial court may be prohibited from hearing his plea

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that the statute violates the constitutional guarantees of his state; if, when this court has so held, that statute may be re-enacted by a bare majorty of those voting thereon and the severest penalties be thereupon inflicted; then law has become a phantom and justice a dream, and the constitutional guarantees of the sacredness of life, liberty and property, "a tale told by an idiot, full of sound and fury, signifying nothing." The conclusion of the court is that the whole scheme for the recall of judicial decisions is null and void and that decisions of the state courts holding statutes unconstitutional must go into effect immediately and must stand upon exactly the same footing as any other decisions of the court.

Trade Unions—Membership in Union as Ground for Discharge of Firemen by Municipal Commission. McNatt v. Lawther (Texas, Court of Civil Appeals, June 9, 1920, 223 S. W. 503); San Antonio Fire Fighters' Local Union No. 84 v. Bell (same, June 19, 1920, 223 S. W. 506). In the first of these cases the plaintiffs, who were seeking by mandamus their reinstatement as firemen in the city of Dallas, joined a local union affiliated with the American Federation of Labor. They were ordered by the mayor and commissioners of the city to withdraw from the union and upon refusal were suspended and later discharged. The charter of Dallas provided that policemen and firemen should hold their positions during good behavior and should be removed only for such causes as in the opinion of the commissioners rendered them unfit for service and after notice, the filing of charges, and a hearing. The commissioners filed charges of insubordination and an attempt to stir up strife and trouble in the fire department by bringing it under the control of the American Federation of Labor. The court held that they had power to revise the decision of the commissioners in respect to removals only when that power had been exercised in an arbitrary and capricious manner. After citing the Boston police strike the court said that it could not say as a matter of law that the conclusion of the commissioners that membership in a trade union unfitted a fireman for effective service did not rest upon reasonable grounds. The state statute making it lawful for any person to join a labor union was declared to afford no protection against discharge on the ground of membership in such union.

In the second case the same result is reached and couched in somewhat stronger language. Here the plaintiffs were seeking to enjoin the discharge of their members from the fire department of San Antonio

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on the ground of membership in a trade union. The city had the right to determine that such membership rendered its appointees inefficient and untrustworthy and the courts could not reverse such a decision. In the absence of statute the city was declared to have the same right to remove its employees as a private employer.

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FOREIGN GOVERNMENTS AND POLITICS

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Recent Articles in Foreign Periodicals. The following brief survey notes a few of the more important and more interesting articles on foreign governments and constitutions which have appeared during the past year or two in leading European journals. It includes discussions of governmental organization, structure, process and procedure only, omitting as far as possible what has been written concerning political issues, party fortunes, or questions of public policy.

Most of the material noted is from British publications and deals with the United Kingdom or its dependencies. Of the discussions dealing with Great Britain one of the most able is an article by J. A. R. Marriott on "Parliament and Finance" in the *Edinburgh Review* for January, 1920, analyzing the reports of the parliamentary select committee on national expenditure. In addition to considering important failings in method and procedure in the existing manner of financial control, which require no fundamental readjustment, but rather changes in detail and a strengthening and extension of the present system, the writer contends (1) that the treasury must cease to be a spending department, (2) that cabinet solidarity must be restored and departmental isolation ended; and (3) that in order that the Commons may really control finance and that independent action and criticism may be made possible, every motion for change in the government's estimates should not be treated as a question of confidence.

The *Nineteenth Century* for July, 1920, contains an article by Walford D. Greene entitled "An Omnicompetent Prime Minister." In it he discusses the centralization of executive power in the hands of the prime minister. Mr. Greene shows that the cabinet is becoming increasingly independent of Parliament, while the premier is already authoritative and independent within the cabinet—conditions accentuated by the war and Lloyd George, but manifest long before them. Great Britain seems to be traveling fast in the direction of presidential government.

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In the December, 1920, issue of the same journal is a review of the Haldane commission's report on "The Machinery of Government." The article shows the need of a more logical distribution of functions among the various departments according to the nature of the service they perform. But the reviewer fails to make known how excellent a document the Haldane report really is.

The March, 1920, *Contemporary Review* contains a brief article called "Home Rule for England." It shows the need for a federal devolution of parliamentary authority in the United Kingdom, but points out that in any such scheme it would be more wise, if not necessary, to maintain the unity of England under an English parliament, rather than to divide that country into several legislative areas.

H. E. A. Cotton, in the January, 1920, issue of the same review discusses the Government of India Act of 1919. He tells how in the eight major provinces (except Burma) certain specified subjects of governmental action will be "reserved" to the governor and executive council, all others standing "transferred" to ministers chosen from elected legislative councils. He also discusses finance, the franchise, central and provincial government, and imperial relations. The treatment is systematic and instructive.

There are, of course, innumerable articles on Ireland, dealing with all the phases of the situation and on all sides of the controversy. The *Fortnightly Review* for April of last year contains a short but systematic discussion, called "The Government of Ireland: The Fourth Home Rule Bill." The essay gives a brief historical survey of Anglo-Irish relations, and the chief points of the three preceding home rule measures. It then sketches the present scheme, noting (1) the limitation on home rule and on specific reservation of power to the Imperial Parliament, and (2) the quasi-federal North-South division and the All-Ireland Parliament to be selected by the Northern and Southern Parliaments from their own members. This arrangement, strikingly similar to the Austro-Hungarian Ausgleich, the author thinks "reveals a touch of statesmanship."

There is a similar but less systematic discussion of the same sort, entitled "The Better Government of Ireland," in the April, 1920, *Contemporary Review*. The author, Stephen Gwynn, believes that the new federal arrangement ought to work as well in Ireland as it does in Switzerland, where, he observes, racial and religious conditions are much the same.

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Of interest also are several articles dealing with the need for reorganization and reform in the British foreign service. The *Nineteenth Century*, in October, 1919, had an able discussion of the methods of selection and the organization and duties of the British diplomatic and foreign office service, by Malcolm McIlwraith, written in a friendly critical spirit, and comparing and contrasting the organizations and practices of other countries with those of Great Britain.

In *New Europe* for April 8, 1920, Professor George Young, in an article called "Foreign Office Reform," urges the reorganization of the services by: (1) coördinating political and commercial work, (2) abolishing all income qualification for entry into the diplomatic service, (3) amalgamating the Foreign Office and diplomatic branches, (4) establishing a course in post-graduate training, and (5) reorganizing the whole service along regional lines; namely, Oriental, the Levant, Slavonic, Teuto-Scandinavian, and Romance, each with a specially trained regional corps. In a later number of the same paper Professor Young expresses his satisfaction at finding the more important of these reforms already operative in Germany. The article is entitled "Foreign Office Reforms: A Light from Berlin."

Of continental comment on British government there is not much of the sort in which we are interested. But there is an article worth noting in *La Revue Politique Internationale* for January, 1920, on the "Future of Political Parties in England." Its interest for us lies in the fact that its basic assumption is that the two-party system is an inherent and indispensable part of the British governmental system. The author, none other than Sir Sidney Low, tries to show by sketching the history of parties from shortly before the war to date, and analyzing the contending factions within the Labour Party and within the Coalition, that the bi-party system will be restored. He forecasts a sort of Birkenhead "Conservative bloc" of old Unionists and Liberals opposed by a "variegated horde of Socialists and Social Democrats."

Of British material on other countries there is little of much importance. It may be well, however, to mention an essay in the May, 1920, *Nineteenth Century* by Pierre Crabites, whose rather misleading title is "Republicanism in Germany and France." The paper begins with an account of the rise of freedom in France and in England, and devotes the greater part of its space to what could scarcely be called a favorable criticism of the administration of French law and justice, declaring that Englishmen would never tolerate its methods. It ends with the assertion that republicanism is possible in France because "equality

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permeates the atmosphere" and "castes and classes are unknown," while the German of today cannot grasp the true meaning of such equality. The author ventures that while the world may applaud the apparent triumphs of democracy, the German civil servant, as the Egyptian priest, will smile and keep his hand on the wheel. It is only fair to say that in spite of its sweeping assertions this article contains some interesting facts.

In the *Quarterly Review* for January, 1921, is an analysis of the new German constitution, by J. W. Gordon. The April (1921) number of the same journal contains an interesting article on "The Science of Public Administration." While based mainly on recent official reports dealing with British administration, this discusses some of the general principles of administrative organization.

The *Journal of Comparative Legislation and International Law*, has published brief accounts of the new South American constitutions in Uruguay (January, 1921) and Peru (October, 1920), and also of the constitution of Czecho-Slovakia and the new Government of India Act (January, 1921), as well as the annual surveys of legislation in the British dominions. A brief outline of the constitution of Czecho-Slovakia was also given in *New Europe* for April 29, 1921. It gives the organization and relations of the House of Deputies and the Senate, the position of the President, the ministers, the referendum, the organization of the judiciary, the rights of minorities, the franchise and proportional representation. The government seems to be a cross between the cabinet and presidential types. The ministers are responsible to Parliament, but the President seems to have an independent power of dissolution and a suspensive veto. It will be interesting to see how this system will work out.

Most of the articles appearing in French periodicals deal with political tendencies current in the republic, or with tenets and views of the various schools of French political thought.

M. Eduard Julia, in "Elections et Revolution" in the October, 1919, *Revue Politique et Parlementaire*, contends that France is really in a state of revolution. The workers are in a dominant position, and their dominance is due to the fact that the state owes them so much money. The author bitterly regrets this state of affairs. The article is exceedingly anti-labor in tone.

M. A. Darler, in the December, 1919, issue of the same periodical has a paper called "Le Leçon des Elections." In it he analyzes the results of the most recent French national election. He comments on

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the socialist losses and the new Republican *bloc*. He notes the fact that only one-fourth to one-third of the electorate participated in the polling. This situation alarms him and he suggests a compulsory voting law as a remedy. But more interesting is another article in the same issue of the *Revue* on the French election law of 1919, outlining its principal features in some detail, showing it to be a hybrid affair, an ingenious combination of proportional and majority representation. In the same *Revue* for March, 1920, is an article on the new German constitution.

A number of articles in French periodicals deal with administrative reform. A very interesting discussion entitled "Sur un projet de réorganization de la police" appeared in the *Revue Politique et Parlementaire* for April, 1919. The writer declares that the tendency toward centralization never ceases. The central government continually seeks to gain ground at the expense of the municipality. Now it is the local police which the minister of the interior is attempting to reorganize and control. The only local sentiment in favor of this move comes from the peasant groups, who under the new system would pay only part of the upkeep of their local guards, instead of all, as now. The plan calls for the establishment of a new body of cantonal police, to be stationed at a central point, the chief city in the canton, rather than assigned to the various communes. The local *maires* would lose all their authority over the police. These changes would destroy the existing advantages of the rural guards' acquaintance with the people of the villages, not to speak of dangerously increasing central authority and lessening local political vigor.

An extended report of a commission of the Chamber of Deputies on administrative reorganization in France was published in the *Revue Générale d'Administration* for May–June and July–August, 1919, and this was followed in the next number of the *Revue* by an article on administrative reform from the economic point of view, written by Gaston Monsabrat. In the same *Revue*, beginning with the number for July–August, 1920, is a series of articles on executive power in time of war.

A short article on recent tendencies relative to the office of President of the French Republic appeared in the *Revue du Droit Publique et de la Science Politique*, for October–December, 1920.

In the *Revue des Sciences Politiques* for June 15, 1920, is an article on regionalism, by Jules Mihura, secretary-general of the French Regionalist Federation. The same *Revue* for January–March, 1921, contains a

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translation of two chapters of Lord Bryce's *Modern Democracies:* (1) The Character of Public Life, and (2) What Democracy had done for France. These are published under the title, "Sur la Democratie Française." No comments accompany the excerpts.

German periodicals begin to present systematic articles relating to the new constitutions in that country. In the *Annalen fur Soziale Politik und Gesetzgebung* for 1919, Dr. Richard Thoma, under the title "*Deutsche Verfassungsprobleme,*" discusses some of the problems before the German constitutional convention. He tells of the report of the Preuss commission recommending a federation, not of the old units, but of new ones formed by merging the smaller commonwealths and dividing Prussia into several new states. The writer discusses also the struggle between the forces of federalism and centralization. He shows that if Austria is to be finally merged with the German Republic, a federal system of government is a necessity.

An exceedingly able essay in the same number of the *Annalen,* entitled "*Parliament und Sachverständigenkammern,*" discusses the relation of Parliament to expert bodies. The first section deals with the organization of "autonomous" associations of workers, employers, financial and commercial chambers, and such groups. The author then dwells on the organization of units in the army, battalions, companies, etc.; on cultural associations, and on the possibility of socialization of natural resources and industry through these "autonomous" groups. The essay ends with a section under the caption "Bilanz" which discusses the balance between these various groups and their relations to Parliament. The discussion is not abstract, but is in the light of German political conditions.

Volume IX of the *Jahrbuch des öffentlichen Recht,* for 1920 (the first which has appeared since 1914), is given entirely to recent political changes. About one-third of this number is an extended article on "*Revolution und Reichsverfassung*" in Germany, by Dr. William Jellinek, professor at Kiel. This deals with the Revolution of November, 1918, the provisional constitution of February, 1919, and at greater length with the definitive constitution adopted by the Weimar assembly. This is followed by a series of shorter articles, by various authors, on the new constitutions of Bavaria, Saxony, Wurtemburg, Baden, Hesse, Mecklenberg, the new state of Thuringia, and German-Austria. The final article in this *Jahrbuch* is on the Peace Treaty of Versailles, by Dr. Herbert Kraus, professor in Königsberg.

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Several discussions of recent constitutional developments in Germany have also appeared in the *Archiv des öffentlichen Rechts*. In Number 4, Volume 39 (1920), is an article entitled, "*Kritische Vorbetrachtungen zur neuen Reichsverfassung*," by Leo Mittmayer; and one on the new constitutions of Baden and Wurtemberg by Dr. Otto Koellreutter. In Number 1, Volume 40 (1921), is an analysis if the new Prussian constitution, by Robert Piloty. This calls attention to the new *Staatrat* and the provisions for provincial and local autonomy as the outstanding features of the new instrument.

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Swiss Treaty Initiative. Since the referendum on the League of Nations of May 16, 1920, the most important question to be dealt with by the Swiss people was the initiative on treaties, accepted January 30 of this year. The initiative was presented in the form of an amendment to Article 89 of the federal constitution (the referendum article), and may be translated as follows:

"Treaties with foreign powers which are concluded without limit of time or for a period of more than fifteen years shall also be submitted to the people for acceptance or rejection upon demand of 30,000 Swiss citizens qualified to vote, or of eight cantons."

The effect of this amendment is to subject future treaties of the classes named to the optional referendum upon the same terms as ordinary federal legislation. For twelve years this question has been before the Swiss people. Disclosures made in 1909 regarding a secret transaction in connection with the St. Gothard treaty caused intense popular indignation.[1] Long before this, however, the Swiss had shown repeatedly that they possessed in more than ordinary measure the distrust democratic peoples are apt to feel regarding diplomatic procedure. Following the disclosures of 1909, initiative petitions were circulated in favor of the above constitutional amendment, receiving 64,391 signatures, nearly 15,000 more than were needed. Before a vote could be taken, however, the war broke out. Action on this, as well as on three other pending questions, was postponed to avoid the possible additional distraction of public opinion at a time when the country was already torn by questions arising out of the war.

When the embargo on this question was finally lifted during the

[1] Cf. Jesse Macy, "The Swiss as Teachers of Democracy," *Review of Reviews*, Vol. 47 (June, 1913), pp. 711–714.

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latter part of 1920, the Swiss people took it calmly enough. Nothing like the interest manifested over the League of Nations, or even over such domestic questions as the nationalization of railroads, was aroused. In part, this was due to the virtually universal recognition that the proposal would be carried by a large majority. Earlier in the agitation the federal (executive) council had expressed itself energetically against the proposition, and as late as 1919 it contemplated bringing forward a counter proposal accompanied by a strong argument. In the end, however, the federal council and the two legislative bodies allowed the initiative to go before the people without opposition, although not without misgivings.

In discussions before the people arguments against the initiative proposal made a much greater showing than arguments for it. Occasional diplomatic errors, such as that committed in connection with the St. Gothard treaty, it was held, did not justify so drastic a change in the constitution. The possibility that future treaties might be haled before the people by referendum petition would cripple Swiss negotiators, and involve the whole treaty-making power of the country in doubt and discredit. Foreign powers interested in treaty decisions one way or another might attempt to influence the referendum vote of the country by intrigue, propaganda, or even by the use of corruption funds. It was further pointed out by the opponents of the proposal that a referendum vote by the people on a domestic question involved the power to decide that question definitively. A referendum vote on a treaty, however, involved action on a pending agreement affecting the interests not only of the Swiss people but of one or more other peoples. The latter might, not unnaturally, deeply resent unfavorable action by the Swiss electorate.

It was rather noteworthy that arguments against the treaty initiative seldom took the form of a denial of the ability of the people to pass on foreign relations, or of an assertion that the superior knowledge and ability of seasoned statesmen should alone be relied upon in this field. Quite obviously, the opposition was half-hearted and academic. Too many signs of the times indicated that it would carry by a large majority—that, rightly or wrongly, the Swiss people had decided to take a hand in treaty-making, just as they had decided long ago to take a hand in ordinary legislation.

On January 30 this forecast was realized, 388,365 voting for, to 158,668 voting against, the proposal.[2] It carried every canton except

[2] *Berner Bund*, January 31, 1921. The vote of several communes in Ticino had not been received at the time the above figures were printed. On the same

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Uri and Thurgau. Once more, therefore, Switzerland is to experiment with democracy in a hitherto untried field. A certain leeway is allowed the executive and legislative bodies in dealing with treaties for not more than fifteen years. This would seem to offer an opportunity for evasion, particularly in the case of commercial treaties, which may readily be concluded for shorter periods. On the other hand, a government so cautious as that of Switzerland is not likely to go far in this direction against the will of a people so jealous, watchful and powerful. Of course a small nation, pledged to neutrality, can undertake such experiments with much greater likelihood of success than the people of a great power. The movement generated by the war in favor of open and democratic diplomacy assures an interest the world round in Switzerland's experience under this new amendment.

ROBERT C. BROOKS.

Swarthmore College.

day that the Swiss people voted "yes" by so overwhelming a majority on the treaty initiative, they voted "no" by an even greater majority on a purely domestic question, i.e., the military justice bill, submitted to them under the optional referendum. This bill, backed by Socialists and anti-militarists, proposed to substitute the varying codes of the twenty-five cantons for the uniform federal penal provisions in cases coming under military law. Soldiers guilty of violations were to be tried, not in the federal courts, but in the courts of the canton where the offence occurred. The opponents of the bill denounced it as a revolutionary attempt to break down all discipline in the army, and the country sustained them by a vote of 384,446 to 193,000. Now that the Swiss army system has been freed from this menace, it is generally conceded that the hardships imposed by the outworn penal law of 1851, will be removed by ordinary legislative processes.

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NEWS AND NOTES

Personal and Miscellaneous

EDITED BY FREDERIC A. OGG

University of Wisconsin

By vote of the Executive Council, the next annual meeting of the American Political Science Association will be held at Pittsburgh in December, 1921. The American Economic Association will be in session in the same city on the same days. The committee in charge of the political science program is C. G. Fenwick, Bryn Mawr College, chairman; C. E. Merriam, University of Chicago; F. B. Sayre, Harvard Law School; J. T. Young, University of Pennsylvania; and V. J. West, Stanford University.

Since the May issue of the Review the following names have been added to the list of members of the association:

Allen, Charles A., San Jose, Cal.
Baker, Ray Stannard, Washington, D. C.
Bass, R. P., Eugene, Ore.
Begg, James T., Washington, D. C.
Bibliotecka Uniwersytecka, Poznan, Poland.
Carneiro, Dr. Mario, Rio de Janeiro, Brazil.
Errera, Professor Paul, Brussels, Belgium.
Fenn, Rev. P. T., Jr., Syracuse, N. Y.
Ganfield, W. A., Center College, Danville, Ky.
Gavis, Roy L., Roanoke, Va.
Hagerman, H. J., Roswell, N. M.
Jacobson, Conrad, Ponca, Neb.
Jacoby, N. D., New York, N. Y.
Janson, Florence E., Rockford, Ill.
Kiekhofer, W. H., Madison, Wis.
Klinger, A. Conn, Delaware, Ohio.
Lay, Tracy, Washington, D. C.
Lewis, J. J., Kirkwood, Mo.
Lockey, Joseph B., Nashville, Tenn.
The Low Library, Shanghai, China.
McCormick, Edith R., Zurich, Switzerland.
Morris, Roland S., Philadelphia, Pa.
Plimpton, Francis T. P., Amherst, Mass.

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Scott, J. F., Berkeley, Cal.
Library, Southern Branch-University of California, Los Angeles, Cal.
Reyes, José S., New York, N. Y.
Shaw, G. Howland, Washington, D. C.
Tsen, D. C., Shanghai, China.
Thomas, Thomas H., Windsor, Vt.
Villaran, Manuel V., Lima, Peru.
Williams, Bruce, University of Virginia, University, Va.
Zimmerman, J. F., New York, N. Y.

Professor A. N. Holcombe, of Harvard University, is giving instruction during the summer term at Leland Stanford Jr. University, and Professor Lindsay Rogers is lecturing in the summer school of the University of Southern California.

Professor W. B. Munro, of Harvard University, gave the Weil Foundation lectures on American citizenship at the University of North Carolina during the month of April. These lectures, which dealt with the subject of "Personality in Politics," will be published in the autumn.

Mr. James A. Garfield, a graduate of Williams College and of the Harvard Law School, has been appointed instructor in constitutional law at Harvard University for next year.

Professor Walter J. Shepard has resigned his position at the University of Missouri to accept a similar one at Ohio State University.

Dr. E. E. Eubank, of the Y. M. C. A. College of Chicago, has been appointed professor of social science at the University of Cincinnati.

Professor Harold S. Quigley, of the University of Minnesota, has been granted leave of absence for 1921–22. He will spend the year in China, teaching at Tsing Hua College and carrying on research on Far Eastern politics.

Mr. C. R. Robinson has been appointed instructor in political science at the University of Minnesota.

Mr. Edward C. Smith, instructor in political science at Lafayette College, has been appointed to a similar post in New York University.

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Professor John M. Mathews, of the University of Illinois, is teaching at the University of Nebraska during the summer session, and Dr. C. A. Berdahl is teaching for the summer at Tulane University.

Professor G. W. Rutherford, of Grinnell College, is teaching during the summer session at the University of Kansas.

Dr. F. H. Guild, instructor in political science at the University of Indiana, has been promoted to an assistant professorship.

Professor F. W. Coker, of Ohio State University, is giving summer courses at the University of Pennsylvania.

Mr. J. H. Leek, a graduate of James Milliken University and a graduate student at the University of Illinois, has been appointed instructor in political science at the University of Pennsylvania.

Mr. H. W. Thompson, who is completing his work for the doctor's degree at Wisconsin, has been appointed instructor in political science at that institution.

Mr. Raymond L. Buell has resigned his position at Occidental College in order to resume graduate work at Princeton University.

Dr. N. H. Debel, of Goucher College, gave two courses on American government in the summer session of Johns Hopkins University.

Dr. F. A. Magruder, associate professor of political science at Oregon Agricultural College, is traveling in Europe during the summer. Dr. U. G. Dubach, of the same institution, has been on leave since May 1 and has been visiting the principal South American countries.

The American Philosophic Society has awarded the Henry Phillips prize, amounting to two thousand dollars, for 1921 to Professor Quincy Wright, of the University of Minnesota, for an essay entitled "The Control of Foreign Relations in the United States; the Relative Rights, Duties, and Responsibilities of the President, of the Senate, of the House, and of the Judiciary, in Theory and in Practice."

With a view to bringing about coöperation among the committees on teaching, maintained by several learned societies, a national council

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for the social studies has been organized. The officers for the first year are: A. E. McKinley, professor of history in the University of Pennsylvania, and editor of the *Historical Outlook*, president; R. M. Tryon, professor of history in the University of Chicago, vice president; and Edgar Dawson, professor of political science at Hunter College, secretary-treasurer.

The seventh annual session of the Summer School of Community Leadership will be held at the University of Wisconsin, August 15–26. The school is conducted by the American City Bureau, and is specially adapted to the needs of secretaries of chambers of commerce and civic workers of various kinds.

Under the direction of Dean Roscoe Pound and Professor Felix Frankfurter, of the Harvard Law School, a survey has been made of the administration of criminal justice in Cleveland. The survey was conducted in five divisions, *i.e.*, police, prosecution, court administration, penal treatment, and medical relations. No such comprehensive attempt to study the problem of the treatment of the offender in a metropolitan city has hitherto been made.

The recently established New York State Association, of which Mr. Adelbert Moot of Buffalo is president, and Dr. Robert Moses of New York City is secretary, has started the publication of a *Bulletin* devoted to public affairs of the state.

The Bureau for Research in Government at the University of Minnesota has published "A History of the Constitution of Minnesota," by the director, Professor William Anderson, in collaboration with Dr. A. J. Lobb.

The Harris political science prizes for 1921 have been awarded as follows: first prize of $150 to Harold F. Kumm, University of Minnesota, for an essay entitled "The Legal Relations of City and State with Reference to Public Utility Regulation"; and second prize of $100 to Clarence E. Fugina, University of Wisconsin, for an essay entitled "Budgetary Reform in the National Government of the United States." Honorable mention was accorded to J. F. Sharp, Wabash College, for an essay entitled "Campaign Contributions and Expenditures and their Regulation."

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The subjects from which competitors may choose in 1922 are as follows:

(1) Freedom of speech, press and assembly.

(2) Comparison of American bills of rights with equivalent provisions in foreign post-war constitutions.

(3) Administrative reorganization in the national government, or in state governments.

(4) State or local administration in a particular field, such as public health, public welfare, police.

(5) Governmental intervention in labor disputes.

(6) Municipal Government: (a) Is a city more of a business corporation than a state? or, (b) Is commission or manager government adapted to cities with more than 300,000 population?

(7) Recent tendencies in primary elections and other methods of nominations.

(8) Party platforms: (a) Comparative study of all the national party platforms of 1912, 1916, and 1920, or of state party platforms in a particular state in any one of those years; or (b) influence of national platforms on national legislation, or of state platforms on legislation in a particular state.

(9) Congressional control of national elections.

(10) Organized labor as a factor in politics in Great Britain or in the United States.

(11) American policy in the Caribbean.

(12) Economic aspects of the Monroe Doctrine.

(13) Far Eastern politics with reference to (a) the Shantung controversy, or (b) the Japanese demands in China since 1914.

(14) Workings of the League of Nations during its first year.

(15) Political reconstruction in India.

The competition is open to all undergraduates in colleges and universities of Minnesota, Wisconsin, Illinois, Iowa, Indiana, and Michigan. For further particulars, address Professor N. D. Harris, Harris Hall, Northwestern University, Evanston, Illinois.

An Institute of Public Administration has recently been organized in New York City to extend and carry on the work of the Training School for Public Service of the New York Bureau of Municipal Research. Furthermore, in recognition of the place of research in the training of administrators, the Bureau of Municipal Research has itself been fused with the institute. Since 1906, the bureau has been

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rendering technical service to national, state, city and county governments in all phases of public administration. Special attention has been given to administrative organization, personnel management, financial planning, budget making, taxation, debt administration, accounting, purchasing, public health, police and fire administration, the management of public works and utilities, and the introduction of modern business methods in government. Since 1911 the Training School for Public Service has given instruction to over 450 students, many of whom are now found in responsible administrative positions with the national, state and city governments, in bureaus of research, chambers of commerce, universities, and civic federations. The National Institute of Public Administration has acquired the good-will, the accumulated experience and traditions, the library, and the entire staff of the Training School for Public Service and the Bureau of Municipal Research. It plans to extend the educational and scientific work heretofore carried on by these organizations and to provide a more systematic and comprehensive course of training.

The ninth meeting of the Governmental Research Conference of the United States and Canada was held in Philadelphia, June 2–4, 1921. This was the second meeting of the conference to be held apart from the National Municipal League, the first separate meeting being held in Chicago in 1919.

The early sessions of the meeting were devoted to the discussion of various committee reports. Dr. A. E. Buck, of the National Institute of Public Administration, presented a tentative draft of a budget section for state constitutions, and Wendell F. Johnson, of the Toledo Bureau of Publicity and Efficiency, made a report with regard to a charter section on purchasing. A preliminary report by William C. Beyer, assistant director of the Philadelphia Bureau of Municipal Research, on possible ways of reconstituting our civil service commissions, was followed by a round-table discussion of public employment problems. Dr. Luther H. Gulick, acting director of the National Institute of Public Administration, presented a report making tentative suggestions with regard to the organization of boards of education.

Perhaps the most interesting session of the meeting was the one devoted to a discussion of "Developments in Govermental Organization to Meet Present Day Needs." The leading speakers on this topic were Dr. Harold W. Dodds, secretary of the National Municipal League, Richard S. Childs of New York, Morris L. Cooke, of Phila-

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delphia, and Henry P. Seidemann, of the Institute for Government Research, Washington, D. C. Another notable feature of the meeting was an address by Sherman C. Kingsley, the newly elected executive secretary of the Philadelphia Welfare Federation, on "The Human Side of Government." The last half-day was given over to group conferences on accounting and finance, civil service, and publicity and promotion.

The following officers were elected for the ensuing year: president, Frederick P. Gruenberg, director of the Philadelphia Bureau of Municipal Research; vice president, R. E. Miles, director of the Ohio Institute of Public Efficiency; and secretary-treasurer, Lent D. Upson, director of the Detroit Bureau of Governmental Research.

The conference decided to hold its next meeting in Cleveland in June, 1922, and to continue the practice of separate meetings.

The first session of the Institute of Politics, recently established under the auspices of Williams College, is scheduled to be held at Williamstown from July 28 to August 27. The general subject for the session is International Relations, which will be treated in its historical, political, legal, commercial and institutional aspects. Foreign lecturers and their subjects are Viscount James Bryce, "International Relations of the Old World States"; Baron Sergius A. Korff, "Russian Foreign Relations during the last Half-Century"; Stephen Panaretoff, "Near Eastern Affairs and Conditions"; and Tomaso Tittoni "Italian Foreign Policies." Round table conferences are to be conducted by Professors A. C. Coolidge and R. H. Lord, on Central Europe; former Under-Secretary of State Norman H. Davis, on the reparations question; Professor J. W. Garner, on the peace treaties; Professor C. H. Haskins and Major Lawrence Martin, on the boundaries of new Europe; Professor J. S. Reeves, on fundamental conceptions in international law in relation to political theory and political philosophy; Dr. L. S. Rowe, on Latin American questions; Professor F. W. Taussig, on tariffs and tariff problems; and Professor G. G. Wilson, on unsettled questions in international law.

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BOOK REVIEWS

EDITED BY W. B. MUNRO

Harvard University

Modern Democracies. By VISCOUNT BRYCE. (New York City: The Macmillan Company. 1921. 2 vols.)

American political scientists do not need to be told that James Bryce's latest work is one of the most important ever written on the principles and practice of democratic government. Half a century has passed since Bryce, already widely known and esteemed for his brilliant essay on the Holy Roman Empire, became Regius Professor of the Civil Law at Oxford. A third of a century has passed since his masterly description and appreciation of the American Commonwealth put him at the head of all students of American government and politics. Since then he has served as a member of three British cabinets, he has been the British ambassador to the United States, and he has traveled to all quarters of the globe, always keenly interested in the institutions of the lands he visited, viewing them with the observant eye of the practical statesman and enriching his reflections with the ripe learning of the scholar. Ever alert, sober-minded but not unsanguine, the record of his travels, comprising not only the more elaborate writings, such as his observations and impressions in South Africa and in South America, but also numerous special articles scattered among many different publications, forms the most extensive and reliable body of material for the study of his times that any modern political scientist has produced.

Now he embodies the ripest fruits of these years of travel and study in two stout volumes. After some introductory considerations applicable to democratic government in general, he proceeds to a detailed comparison of the working of democracy in various countries, chiefly France, Switzerland, Canada, the United States, Australia, and New Zealand, and concludes with some general observations and reflections on the present and future of democratic government. He brings to this discussion of modern democracy not merely a wealth of knowledge,

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but a breadth of sympathy and a depth of insight which give to his conclusions a matchless authority. The volumes moreover are written in an easy and graceful style which charms not less than it instructs. They are indeed, as American political scientists had expected them to be, a fitting culmination of an extraordinarily active and productive career.

The American reader will first turn to the chapters on democracy in the United States to ascertain how far Bryce has modified the views he expressed a generation ago. He will be gratified to find that the high hopes for the future of democracy, with which Bryce was sustained throughout his inquiry into the rough and too often repellent politics of the eighteen-eighties, sustain him still. "No Englishman," he writes, "who remembers American politics as they were half a century ago, and who, having lived in the United States, has formed an affection as well as an admiration for its people,—what Englishman who has lived there can do otherwise?—will fail to rejoice at the many signs that the sense of public duty has grown stronger, that the standards of public life are steadily rising, that democracy is more and more showing itself a force making for ordered progress, true to the principles of Liberty and Equality from which it sprang."

Bryce is careful to avoid personalities, which is probably wise in view of the circumstances, but one can not help wondering what he would say, were he to rewrite his earlier chapter, entitled "Why Great Men Do Not Become President," now that two of the young men, whom he learned to know when he was writing the *American Commonwealth*, have risen to the highest post in the land and have made their mark in history. Even when he refers to the difficulties which senatorial jealousy of the Executive has more than once in recent years put in the way of the best use of the treaty-making power, there is not a word to disclose any personal feeling over the failure of the arbitration treaty which he himself negotiated when his friend Taft was President, to say nothing of more recent events.

But Bryce is not blind to the faults of American democracy. He still finds in the cities of the United States the most numerous and striking illustrations of the maladies to which democratic government is liable, though with fine discrimination he does not neglect to point out how exceptional their circumstances have been, nor does he overlook the beneficial disciplinary influence of the American system of local self-government. He reënforces his earlier strictures on the personnel of the state legislatures and on the methods of law-making.

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But he reserves his strongest censure for the American party system. Party organization, he observes, unlike party spirit, is a comparatively new phenomenon, first developed in the United States. "It has rendered some services, but far greater disservices, in the land of its birth, and has been more or less imitated in Australia, New Zealand, Canada, and Great Britain, in all of which it is possibly the source of more evil than good." In another place, discussing the tendency of party organizations to become ossified when left to themselves, he points out the need for independent thought to shake them up and breathe new life into them. "They exist for offices rather than for principles," he declares. "If the party system had exerted the same power over minds as it did over offices, it would long ago have ruined the country."

Next to Bryce's opinion of democracy in the United States, it is his opinion of British democracy, now triumphant under the Representation of the People Act of 1918, that will arouse the greatest interest in America. But here he is deliberately reticent. He pleads disqualification because of his long connection with British politics. Nevertheless he can not conceal his misgivings. In discussing the condition of democracy in Australia, he shows how much more democratic the Australian governments are than those of America, and then proceeds to inquire, What of Britain herself? Has not her constitution become in recent years almost as democratic as is the Australian? So far as respects its frame of government, he concedes that this is true. "In practice, however, this is not yet the case. The difference lies in the different social and economic phenomena of the two countries, and in a few traditions of public life, which, though now fast disappearing, give still more influence in old nations like England and France than tradition can have in any new country." It is evident, however, to him who reads between the lines, that the disappearance of the old traditions in England is observed by Bryce with regret, while the rise of new traditions like those whose emergence he detects in Australia is viewed with unconcealed alarm.

American readers who have known Bryce chiefly through his *American Commonwealth* have learned to regard him as an optimist. He remains an optimist, but sometimes seems to do so only by a studied effort. In his preface he candidly confesses that he has sought to repress the pessimism of experience, "for it is not really helpful by way of warning to the younger generation, whatever relief its expression may give to the reminiscent mind." He realizes that the ways of the present generation are not those of the English Liberals of the

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eighteen sixties and seventies, and among whom his early principles were formed. Then democracy seemed a glorious experiment, a "leap in the dark," which men of adventurous disposition might take in a spirit of exaltation. But to the present generation democracy is a part of the environment which, like the weather, practical men may grumble at but do not take seriously as a subject for contention. The real problems of government today, such as the organization of the bureaucracy, self-government in industry, and the economic functions of the state, Bryce scarcely considers. One will search these volumes in vain for light upon the best expedients for improving the process of legislation, or the methods of administration, or, more fundamentally, the adjustment of the conflicting interests of the great self-conscious groups within the modern state, such as, in the United States, the corn-growers, the cotton-planters, the railwaymen, or the coal-miners. Bryce envisages democracy at large. Dismayed but not discouraged by the various *isms* of recent years, state socialism, guild socialism, syndicalism, communism, he puts them resolutely out of mind, and reviews the problems of half a century ago with the dauntless faith of the then youthful reformer. "So may it be said," he concludes, "that Democracy will never perish till after Hope has expired."

Thus *Modern Democracies* embodies the spirit of an epoch which has passed. It comes nearer to doing for the national state of the period before the World War what Aristotle's *Politics* did for the Greek city state prior to the Macedonian supremacy, than any book we are likely ever to possess. Containing more formal description than Aristotle's great work and less constructive criticism, it must long remain the world's fairest picture of the political age of which it treats. Bryce realizes that he is describing an age that is past, and that he can assume the manner of one who has come from a far country. No modern political scientist could have done this better, for Bryce is above all a great traveler. Since Herodotus no man of learning has been so fired with the desire to visit all lands and see all peoples with his own eyes, and no man has produced a more enlightened and dispassionate and satisfying account of what he has learned.

A. N. Holcombe.

Harvard University.

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The Truth About The Treaty. By ANDRÉ TARDIEU. (New York: Bobbs-Merrill Company. 1921. Pp. 473.)

What Really Happened at Paris. The Story of the Peace Conference. By the American Delegates. Edited by EDWARD M. HOUSE and CHARLES SEYMOUR. (New York: Charles Scribner's Sons. 1921. Pp. xiii, 526)

These books belong to that class of literature on the Peace Conference —small as yet—which has permanent historical value. Both are written by men who speak with authority. Of Tardieu, who was an active and influential member of the French commission, we may accept the dictum of Colonel House that "there is no Frenchman, save Clémenceau, who can write with so much authority concerning the Peace Treaty." The authors of *What Really Happened at Paris* were members of the American commission. Each participated in the transactions at Paris which he relates, and many of them, before their arrival in Paris, had made prolonged investigations in their respective fields. To their knowledge of negotiations they add a profound knowledge of the problems considered by the negotiators. Both books, too, are remarkably free from prejudice. Tardieu, to be sure, debates his way through the subject, marshaling the arguments for the French view of the case; but in the portion of his book given to the conference he lets the negotiators speak for themselves. His pages are replete with memoranda, which served as the bases for negotiations, and with extracts from the conversations, which took place among the negotiators. Frequently he quotes the words uttered at critical junctures by Clémenceau, Wilson, or Lloyd-George. His story of the negotiations keeps faith with the title of his book. The American delegates are more calm and dispassionate in tone. They place the views expressed by the American representatives in the foreground, but they record, generally with sympathetic understanding and always with fairness, the positions taken by the representatives of other powers. Before books such as these the fog of doubt and suspicion which an ephemeral literature, based on ignorance and prejudice, has wrapped about the Peace Conference cannot retain its impenetrability.

The coöperative work surveys practically the whole field of operations at the conference, and includes also a chapter by Admiral Mayo on the "Atlantic Fleet in the Great War." The first two chapters are introductory in character. In one, Mezes describes the extensive preparations made by the government of the United States for partici-

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pation in the conference and the bases for peace existing when the conference began. In the other, Day interprets the spirit of the conference and explains its organization. His picture is similar to that given by Tardieu and utterly different from the fantastic sketch of Keynes.

The territorial settlements occupy six chapters: Haskins deals with the western frontiers of Germany, Lord with Poland, Seymour with Austria-Hungary, Johnson with Italian boundaries, Bowman with the Balkans, and Westermann with the Near East. Each writer generally presents the salient evidence which constituted the basis for a decision, describes how the decision was reached, indicating the attitude taken by the principal negotiators without attributing motives or entering upon the course of the debates, and explains the significance of the decision. These chapters form collectively a clear, concise and accurate presentation of a series of complex problems. They are illustrated by excellent maps.

Legal advisers have three chapters: Hudson treats the clauses inserted in the treaties to protect minorities and the system of mandates; Scott analyzes the clauses having to do with the trial of the Kaiser and of those accused of violating the laws of war; and Miller traces in illuminating fashion the evolution at Paris of the covenant of the League of Nations. Economic aspects are alloted four chapters: Lamont gives a well-balanced view of the negotiations on reparations; Young estimates the influences which determined the shaping of the economic clauses and combats effectively many popular misconceptions; Gompers discusses the labor clauses; and Hoover summarizes the accomplishments of the economic administration during the period of the armistice. The two commissioners who contribute say almost nothing about the negotiations. General Bliss presents a weighty argument in favor of common disarmament; while Colonel House weighs in the scales of his comprehensive knowledge the successes and the failures of the conference. The volume provides the best general survey of the whole work of the conference known to the reviewer.

Tardieu treats more fully a limited field. He writes only of those sections of the treaty with Germany which concern France most directly. For convenience of consideration his work may be divided into three unequal parts. The first two chapters are introductory to the main theme. They begin with a summary statement of the relations between Germany and France preceding the war and of the part taken by the French in the war, well designed to produce a sympathetic

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attitude towards the arguments advanced later in behalf of the French claims made at the Peace Conference. The part of greatest historical value is the account, partly verbatim and fraught throughout with dramatic interest, of the conversations between the French and the English leaders which led to the unity of command under Foch. There follow a rapid survey of the events leading to the armistice and a full account, composed largely of the verbatim recital of documentary and oral evidence, of the exchange of views among the representatives of the Allied and Associated Powers through which the terms of the armistice were evolved.

The largest and the most important part of the work is concerned immediately with the Peace Conference. It treats the organization of the conference, the military clauses, the left bank of the Rhine, the treaties of guarantee, Alsace and Lorraine, the basin of the Sarre, reparations and German unity. It is primarily a narrative of the negotiations. It is not a systematic presentation of the facts involved in the problems treated by the negotiators; the facts often come out incidentally as they appear in a memorandum used by the negotiators or in the conversations of the negotiators themselves. But it gives deeper insight into the process of negotiation and fuller knowledge of the course of negotiations on several of these particular topics than any published work known to the reviewer. It is, moreover, a stirring narrative, reproducing in places the atmosphere of the conference so truly that the reader can really appreciate something of the tremendous stress and strain under which the participants labored. The final chapters take up the period since the conference. They contain significant statistical evidence of the progress of reconstruction in the devastated regions, an arraignment of the enforcement of the treaty, and a friendly but firm statement of the author's views as to the shortcomings of Great Britain and the United States with regard to the treaty since 1919.

W. E. LUNT.

Haverford College.

The Political Aspects of St. Augustine's 'City of God.' By JOHN NEVILLE FIGGIS, Litt. D. Late of the Community of the Resurrection. (London: Longmans, Green and Co., 1921. Pp. 132.)

The delivery of these lectures, six in number, was one of the last public acts of John Neville Figgis. They appear here in their original

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form and are a last and convincing proof, if proof were needed, of the irreparable loss their author's death has brought to all students of the history of the development of political ideas.

It is the highest praise to say that these lectures are fully on a level with the author's earlier series on European political thought from Gerson to Grotius. There is the same mastery of materials, the same power of bridging the centuries and thinking the very thoughts of an earlier time, but combined, as in the other book, with the gift, rarely found, of following those thoughts to their latest conclusions and discussing them in the light of the most recent criticism. All this requires an equipment equaled by few and an insight almost unique. It was the development of political ideas that interested Dr. Figgis especially. It is this which he treats in all his books from the earliest to the latest, and in a way unapproached by any other books in English. The only thing comparable is Gierke's *Johannes Althusius*. This method is here applied to St. Augustine's *City of God*.

Aside from Aristotle probably no book has been cited by subsequent political writers so often as the *Civitas Dei*, and none certainly for more diverse purposes. And so, as Dr. Figgis warns us at the outset, the understanding of St. Augustine "is not easy." His book is not a systematic treatise on politics or on anything; and such a work, by one of the most varied, powerful and vivid personalities that has ever recorded itself—"the most intimate and personal of all divines until John Henry Newman"—cannot be wholly consistent. "This book itself is too great to be consistent." Little wonder, then, that St. Augustine has been regarded by some modern critics as essentially ancient, by others as medieval rather, or almost modern—as modern as Vico at least; or that the *Civitas Dei* should have become to some in the midst of later conflicts the very "visible Monarchy of the Church," while to others it was only the invisible *communio omnium sanctorum* which became one of the central ideas of Protestantism.

In this variety, or even inconsistency, of St. Augustine himself and of his interpreters lies the fascination and the difficulty of the *Civitas Dei*. The phrase "Church and State" was not properly applicable in his time, but he did write of both Church and State, and his writings were later appropriated by the champions of each. Some of the most telling parts of Dr. Figgis' lectures deal with these things, or with such questions as Augustine's denial that justice is essential to the bare existence of state, matters some of them no less important now than in the fifth century. And the author never lets us forget this importance.

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In treating these subjects, Dr. Figgis gives us a conspectus not merely of the controversies in which the *Civitas Dei* played so important a part, but of the modern critical writings upon the book as well, the latter more temperate in tone than the polemics but hardly less diverse in their conclusions.

One quotation will serve to show the scope and content of these lectures: "The book has been treated as a philosophy of history finer than that of Hegel; and again as the herald of all that is significant in the 'Scienza Nuova' of Vico. Can such views be sustained? Or is it the case that St. Augustine had no notion of a philosophy of history, that his views are self-contradictory, and that only a few passages throw more than a faint light on it? That question will form the topic of the second lecture. Did St. Augustine teach that the State is the organization of sin, or did he believe in its God-given character, and desire its development? Did he teach the political supremacy of the hierarchy, and, by implication, that of the Pope and the Inquisition? Or was it of the Church as the *Communio sanctorum* that he was thinking? Does his doctrine of individual election reduce to ruins all ecclesiastical theory? These topics will occupy the third and fourth lectures. What was St. Augustine's influence on mediaeval life? Was there something almost like a 'reception' of Augustinianism followed by a repudiation at the Renaissance? Or was it that only slightly he affected political ideals in the Middle Ages? Some see the whole controversy between Popes and Emperors implicit in the 'De Civitate Dei.' Others would trace it to causes quite different. What real change came about at the Reformation? Did St. Augustine's social doctrine (apart from the theology of grace) lose all influence? Or did men retain unimpaired the idea of the *Civitas Dei*, as it had been developed? These questions will occupy the last two lectures."

C. H. McIlwain.

Harvard University.

Les Idées Politiques en France au XVIII^e Siècle. By Henri Sée. (Paris: Libraire Hachette. 1920. Pp. 264.)

In this book a novel and interesting method is employed. It is not a general commentary on French political ideas of the eighteenth century, nor is it merely a compilation of readings from the writers of that period. It is a very ingeniously arranged collection of brief extracts from the eighteenth century writers, selected in such a way

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as to develop and clarify the various streams of thought whose torrential confluence is seen in the French Revolution. A bare minimum of comment by the author, a mere occasional sentence or paragraph, suffices to preserve the continuity of the discourse. It is indeed a method which has been very successfully employed in biography but, so far as the reviewer is aware, has not hitherto been attempted in such a field as the history of ideas. The ideas of each writer or group of writers, and not any particular works are thus analyzed, the extracts being chosen from a wide field of literature. The author is thoroughly master of his subject and marshals his material in convincing fashion.

Four distinct schools appear in the review. All recognized the need of reform but interpreted this need differently and sought to achieve it by different means. The liberal school, which falls in the first half of the century, represented by Montesquieu, D'Argenson and Voltaire, was historical in method, looked to the English government as a model, or sought to build upon the historical institutions of France such as the *parlements*, and was moderate in aim and purpose. The democratic school, of which Rousseau, Diderot, Helvetius and Holbach are the chief exponents, applying *a priori* methods and relying upon pure reason for the construction of a perfected state, was doctrinaire and absolutely intolerant of existing institutions. Its doctrine of popular sovereignty implied democracy in government. The physiocrats, of whom Quesnay and Lemercier de la Riviere are chiefly quoted, were absolute monarchists and, while urgent in their demands for reform, emphasized economic rather than purely political principles. The revolutionary school, of which Mably and Condorcet are examples, accepting the premises of their democratic predecessors, drew the ultimate conclusion of revolution as the necessary means for securing the establishment of the people's sovereignty.

The one idea which was shared by practically all the writers of the period was that of the rights of man, and this became the cardinal doctrine of the Revolution. The demand for a definite formulation of these rights precedent to the drafting of a constitution appears to have been well-nigh unanimous.

It was not to be expected that much new light could be shed upon a subject already so thoroughly investigated as the intellectual movement of the eighteenth century, but the method of presentation and the clarity and proportion of the treatment make this little book a very useful one.

WALTER JAMES SHEPARD.

University of Missouri.

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Our Social Heritage. By GRAHAM WALLAS. (New Haven: Yale University Press. 1921. Pp. 307.)

Long known as a thorough student of English local government, as the biographer of Francis Place, as a member of the original Fabian Society, and as a leading professor in the London School of Economics, Graham Wallas entered the field of political theory through his *Human Nature in Politics*, which was published in 1908. Here he attacked the abstract and metaphysical methodology of contemporary political science and the current intellectualism in political psychology. His *Great Society*, published in 1914, was an effort to construct a sounder and more synthetic psychology of political behavior, modifying to some slight degree the anti-intellectualism of the earlier volume. In the present work he has endeavored to apply his socio-psychological concepts to the problems of social and political reconstruction.

Any program for social improvement must be based primarily upon the conscious effort to alter in a progressive manner "our social heritage" —the cultural equipment of man—for man's physical nature is relatively static. Our social heritage is the sole element which lifts man above the animals and contains within itself the potentiality of progress. Yet it needs continual and consciously directed change in order to adapt it to new conditions. Particularly is this true at present when our technology is on a twentieth century plane while most of the other phases of our cultural equipment are essentially on an eighteenth century level. Further, this conscious readaptation of our social heritage will in the future require more and more attention because of the rapidly evolving and dynamic civilization of this scientific and mechanical age.

This progressive alteration and harmonious reconstruction of our social heritage must be achieved through coöperative endeavor and conscious effort, though leadership is indispensable. Hence, social reconstruction is essentially a problem of improving the existing modes of coöperation. Group coöperation is as yet far from perfect. National coöperation can scarcely be said to exist except on a low emotional plane and operating under the guidance of primitive and deceptive symbols and designing propaganda. It can be improved only by securing a careful psychological and sociological study of the national group, by basing our conception of the national group upon discriminating knowledge of its members, by the progressive elevation of our reactions on national questions to a rational plane, by the purification

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and reconstruction of representative government, by advancing economic justice and contentment, by giving liberty and rights a more positive and socialized import and content, by eliminating the medieval symbolism in monarchy, and by socializing and moralizing science and institutional religion.

International coöperation not only does not exist in any true sense, but it is also the most difficult thing in the world to create. It will, to be sure, be aided by perfecting national coöperation, but it requires much additional effort and is of a far different character. The social sciences must be reconstructed, so as to secure the treatment of their data and problems from the standpoint of world coöperation rather than international competition and enmity. Herd instinct and the tribal spirit, in their present nationalized manifestation, must be conquered through the progressive acquisition of accurate knowledge concerning other peoples, the subordination of instinct and emotion to rational thought, and, above all, by gradually accustoming peoples to international coöperation through ready participation in any discussion or practice which will help to build up a pattern of behavior adapted to conscious coöperative effort in the field of international relations. It will be a slow process, but, without courageous persistence until success has been attained, the peoples of the world must prepare soon to meet a worse disaster than the recent World War.

Such are the leading propositions advanced in this suggestive and timely work. The professional student of politics will probably be far more interested in some of the specific problems analyzed, particularly the discussion of the reconstruction of representative government. Chapters v–vi constitute one of the most comprehensive and incisive of recent attacks upon the pluralism and vocationalism of Cole and the Guild Socialists, and of other exponents of this principle. He holds that vocationalism develops group arrogance, breeds conservatism because men are more conservative in their professional opinions and practices than elsewhere, is based upon the conception of the identity or uniformity of men which has been discredited by differential psychology and biology, is ill-adapted to the accumulation of capital, and is seriously challenged by history. While his arguments are not necessarily conclusive and convincing, they offer a challenge to exponents of vocationalism which can scarcely be ignored. The other specific contribution of particular import for political theory is the effort in chapters vii–viii to give the doctrines of political liberty and natural rights a more constructive, positive and socialized content and implication.

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It is impossible within the space available to attempt any critical appraisal of Mr. Wallas' success in executing the task which he set for himself. While most students will regard this as the most important of his triad of contributions to political theory, they will probably agree that he has suggested problems rather than solved them. Further, they will regret that the author has relied upon data so purely and solely English as the basis for his generalizations. It is probably as progressive and constructive a work as one can look for within the camp of liberal orthodoxy in social and political theory. Those who desire a greater break with tradition will proceed to Cole, Laski, and Duguit.

HARRY E. BARNES.

Clark University.

Problems of To-Day. By MOORFIELD STOREY. (Boston: Houghton, Mifflin Company. 1920. Pp. 258.)

This little volume by a distinguished leader of the Boston bar, comprises the "Godkin Lectures" delivered in March, 1920, at Harvard College. The purpose of the Godkin memorial fund is to provide for the delivery and publication of lectures upon "The Essentials of Free Government and the Duties of the Citizen," and with this purpose the subjects treated in this volume fit in admirably.

It would be difficult to find, combined with wise admonitions, a more persuasive and stimulating appeal to young citizens to cultivate an intelligent interest in all questions of public policy and to participate actively and constantly in the work of practical politics than is to be found in the first of these lectures on "The Use of Party." This lecture deserves to be reprinted in pamphlet form and sent to at least every senior in our colleges and universities. A thousand dollars could not be better expended than in some such form of "Americanization work."

In the lecture on "Lawlessness" attention is directed to the "growing tendency to ignore or disobey the law"; and "conspicuous examples of dangerous lawlessness" are found in recent declarations of labor leaders, in the political dangers inherent in government operation of the railroads, in instances of mob violence and infringements upon the right of free speech, and in the enforcement of constitutional prohibition, which brings us "face to face with a great contest between law and lawlessness."

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In his treatment of "Race Prejudice," the lecturer applauds the loyalty of our negro population during the War; mercilessly flays the custom of lynching; censures the failure of southern states adequately to provide for negro education; vigorously protests against the suppression of the negro vote; and denounces the Sinn Fein and other un-American activities of hyphenated citizens.

In the two remaining lectures, "The Labor Question" and "Our Foreign Relations" are treated in the same incisive and trenchant, yet restrained, manner which characterizes the entire series. Indeed, there is no exaggeration in the publisher's statement that the author "writes always with penetration, lucidity, and a wealth of illustration, and from a point of view at once progressive and well balanced."

P. Orman Ray.

Northwestern University.

The Non-Partisan League. By Herbert E. Gaston. (New York: Harcourt, Brace and Howe. 1920. Pp. vi, 325.)

Mr. Gaston's book is a good illustration of the statement made by James Bryce in the *American Commonwealth* to the effect that the federal system of government allows local political experimentation on a small scale. North Dakota and twelve other states, all located west of the Mississippi River except Wisconsin, have been experimenting with a new political organization called the Non-Partisan League. While the league has elected officers in each of the thirteen states, it is in North Dakota only that it has taken possession of the government and has realized any part of its program.

Mr. Gaston in twenty-four short chapters tells the story of the organization, methods and initial successes of the league in an interesting and at the same time sympathetic way. For three years he had charge of the publications of the league and consequently speaks as an "insider." He shows that the organizers of the league started with the idea that the farmers are an exploited class, who, in order to secure justice, must capture the government. Economic life in North Dakota is comparatively simple, dominated as it is by the agricultural interests. This made it comparatively easy to organize the farmers after they came to believe that they were being robbed by false grading and mixing of grain in the "chain elevators" which had their headquarters in the big terminal grain markets. Mr. Gaston finds the beginnings of coöperation in North Dakota in the small country stores, farmers'

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elevators and in the "Equity Coöperative Exchange." Next came the demands for a primary system of nominating candidates for office, for the popular election of United States senators and for an amended state constitution which would allow the state to own terminal elevators outside of the state.

In 1915 a real leader, A. C. Townley by name, came forward with a plan of action which resulted in the organization of the farmers to achieve an economic program through political action. Gaston clearly states that Townley did not plan to launch a new political party, but rather to organize an economic group that would take advantage of the primary system of nominating to capture the machinery of the dominant party, which happened in North Dakota to be Republican. The organization is non-partisan only to the extent that it takes possession of one political party in one state and another political party in another state. It is no respector of political parties. This organization, using these new methods of political action, won a partial victory in North Dakota in 1916 and a sweeping victory in 1918, capturing all three branches of the state government. In 1919 the new farmers' government enacted and put into operation the industrial program for which it had been contending for several years.

The legislature (1) created an industrial commission to control state-owned financial and commercial industries; (2) provided for state-owned grain warehouses, elevators, flour mills and provided for a state bond issue of five million dollars as working capital; (3) created the bank of North Dakota with an initial capital of two million dollars to be supplied by a state bond issue, the bank to be a depository of public funds and to act as a reserve bank for all state banks wishing to become members; (4) created a home building association; (5) provided for a graduated income tax and for a state hail insurance fund; (6) exempted all farm improvements from taxation; (7) classified all land for taxation purposes; (8) created a workmen's compensation commission; (9) regulated hours and conditions of work for women; (10) provided for strict mine inspection; (11) levied a half-mill tax to buy homes for returned soldiers; (12) passed a new distance tariff act to prevent railroad discrimination.

The constitutionality of the above legislation has recently been upheld by the United States Supreme Court, in the case of *Green* v. *Frazier* (40 Sup. Ct. 499).

Mr. Gaston in the last chapter of his book makes the following statement: "In the light of the accomplishments in North Dakota

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the sincerity and honesty of the purposes of the men in charge of the League movement can scarcely be disputed. Their aim plainly has been to free the market from abuses, to liberate the state from thralldom to great market and financial centers, to stimulate agriculture, to make rural life more agreeable and socially endurable, to make it easier to acquire and to retain home ownership and productive independence and to conserve so far as possible the wealth and production of the state for the people who live in it."

The league now has more than two hundred thousand members in thirteen different states. Its program in North Dakota has not been in operation long enough to pass judgment upon its success. In the campaign of 1920 the league made little headway in other states and lost control of the legislature of North Dakota but reëlected Governor Frazier. Mr. Gaston's book is a frank account of a most interesting attempt at class government under the guise of state socialized industries and business.

J. S. YOUNG.

University of Minnesota.

The Story of the Woman's Party. By INEZ HAYNES IRWIN. (New York: Harcourt, Brace and Company. 1921. Illustrated from photographs. Pp. 468.)

The closing chapter of the struggle for the franchise, with its heated controversy over militant methods, is perhaps too recent to admit of historical perspective. Partly for this reason, Mrs. Irwin's account of the Woman's Party is most valuable, not as political history, but as a picture of the brilliant statesmanship of the young Quakeress who led the fight from 1912 to the ratification of the amendment in 1919. Few who know the history of woman suffrage during that period would doubt that without the leadership of Alice Paul the Nineteenth Amendment would not be part of the Constitution to-day.

Dauntless, imaginative, impersonal, and wholly without the bitterness of most fighters, Miss Paul drew the efforts of others to her plans and inspired devotion which helped to win the fight. With a wealth of anecdote, the narrative makes it clear that she never once departed from the policy taught her by her English experience: that of holding the party in power responsible. It was urged upon her that this method was inapplicable in a country which has no actual party government, but in the end the Democratic leaders, from the President down,

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were driven to accept responsibility. When she formed the Congressional Union in 1913, Alice Paul had convinced her followers that all effort should be put in one direction, that of securing the passage of the amendment. The state organizations were built solely for this end, first, to use the power of the already enfranchised women in the western states, and, second, to secure the ratification by the thirty-six state legislatures.

The volume seems almost cluttered with the mass of quotations from contemporary letters and diaries, newspapers, court records and campaign speeches. The "honor lists" of those arrested are carefully set forth with the story of each arrest. The descriptions of the "suffrage special," the lobbying, the White House pickets, the watch fires, the mail experiences, the burning of the President's words, and the marvelously effective pageantry, so constantly employed, not only chronicle a chapter of profound social and political significance, but reveal new possibilities in dramatic and esthetic appeal in this field.

Whatever is lost in the omission of the relation of the militant effort to the rest of the suffrage movement and its connection with other questions of the day is largely made up in the colorful detail which the novelist author has so tellingly used and in the appreciation she has shown for the *camaraderie* which characterized the work of the groups of women and distinguished it in the field of political endeavor.

AMY HEWES.

Mount Holyoke College.

BRIEFER NOTICES

For exact and trustworthy information concerning the way in which the American Expeditionary Forces were raised, transported to France, and supplied with munitions of war, no work hitherto published compares with *The Road to France* by Benedict Crowell and Robert Forrest Wilson (Yale University Press, 2 vols., pp. 675, paged consecutively). These two volumes contain a comprehensive and accurate narrative of the early preparations, the mobilization of the regulars and the national guard, the workings of the selective service law, the building of the cantonments, the movement of the army to the ports, the embarkation service and the convoys, the quest for cargo vessels—the whole process of war-making which preceded the arrival of the troops and supplies on the other side of the Atlantic. But although the pages are well packed with information they are never dull or unin-

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teresting. The writers display fine discrimination in selecting the things which really counted during the great emergency; they lose no opportunity to let their readers see the picturesque aspects of the nation's steady effort, and they have a far keener appreciation of the really humorous situations than most of those who have been writing about America's part in the war. It was not all plain sailing, this job of depositing two million able-bodied men in France, and the writers do not try to gloss over the numerous mishaps, some of which seem humorous in restrospect but were accounted serious enough in the gloomy autumn of 1917. There are some splendid chapters in both volumes—good history and good literature as well. No red-blooded American can read the tale of the troop convoys, as it is here related, without a thrill of pride and satisfaction. It is risking little to predict that these volumes, well-planned, well-written, and well-printed, will find a wide circle of interested readers.

No publication of its sort in recent years has stirred up a more fervid discussion in English political circles than *The Mirrors of Downing Street* by an author who conceals his identity under the pseudonym of "A Gentleman with a Duster" (G. P. Putnam's Sons, pp. 171). The book contains characterizations, about a dozen pages apiece, of thirteen contemporary British leaders, among them Lloyd George, Mr. Asquith, Mr. Balfour, Mr. Winston Churchill and Lord Northcliffe. The "reflections" of these figures, as viewed in the mirror, after it has been duly dusted, are not in all cases flattering, but they appear in these pages with a sharpness of outline which most pen portraits do not achieve. Guesses concerning the author's identity have covered a considerable range; he is at any rate someone who gets his information at close range and puts it into print with a practiced hand. The analyses of character and motives are clever, incisive and often strongly unsympathetic. Some of them are such as displease the friends and delight the enemies of public men. Those who have taken the conventional accounts of English political maneuverings as implicitly as though they were gospel will find some ruthless smashing of idols in these pages. No mere adventurer in politics or literature could have painted this picture gallery; it is obviously the work of a skilled craftsman. Right or wrong in his estimates, the anonymous author has given us a book that is certainly worth reading. If no criticism is so good for public men as criticism of character, he may also claim to be a public benefactor.

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The long-awaited third volume of Bismarck's autobiography has been published by Messrs. Harper and Brothers under the title *The Kaiser vs. Bismarck* (203 pp.). Professor Charles Downer Hazen, who contributes the introduction, regards the contents of the volume as "the most extensive, the most detailed, and the most authoritative account of an important and dramatic turning-point in modern history." To the student of German political history it is certainly quite as important as the Iron Chancellor's earlier reminiscences and it is likely to be more widely read. The larger portion of the book deals with happenings directly or indirectly connected with Bismarck's resignation; the correspondence bearing upon this event is printed in full. On the whole the documents indicate that the outside world, in forming its own opinions as to the causes which led to the "dropping of the pilot" in 1890, did not go far astray. Its general diagnosis of the trouble was correct. The details are now filled in and they are highly interesting. No wonder the ex-Kaiser tried to hush these memoirs. The letter which his own father sent to Bismarck in 1886, in which mention is made of the future Kaiser's "leaning towards vanity" and "overweening estimation of himself," is one that any monarch might be pardoned for desiring to suppress. The shade of the Chancellor is having a sweet revenge.

Another volume of political disclosures which a monarch would fain have put out of the way is now printed by Messrs. Doubleday, Page and Co., *The Memoirs of Count Witte* (pp. 434). The ill-fated Czar of All the Russias made repeated attempts to get hold of Witte's personal papers but their owner was shrewd enough to keep them, during the later years of his life, in the vaults of a foreign bank under another person's name. Witte is very hard on Nicholas and the whole court clique, which he blames for most of Russia's troubles before the war. There is an enlightening account, from the Russian viewpoint, of the origins and course of the Russo-Japanese war and a full narrative of the negotiations at Portsmouth. Additional information concerning the abortive Treaty of Björkoe is included, and it is material which places neither the Czar nor the Kaiser in a very favorable light. As a commentary upon the Kaiser's diplomatic *gaucherie* this concluding chapter of Count Witte's book will hardly be surpassed, and it would be difficult to unearth in modern history a more spineless mortal than the Czar proved himself to be when he signed the covenant of treachery. Fortunately for the peace and well-being of the world Count Lamsdorff

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was able to have the document committed to the waste-basket. American readers will find many interesting revelations in this book, for example (pp. 408 ff.), where an attempted conspiracy to unite Europe in a tariff war against the United States is uncovered. Count Witte was not inclined to underestimate his own abilities, as any reader of these memoirs can easily see, nor was he an adept in curbing his own personal animus towards those who stood in his way. Yet his patriotism was beyond question, and Russia might have been saved from her overwhelming catastrophies if there had been enough Wittes in the seats of the mighty at Petrograd.

A book on reconstruction problems which has been commanding widespread interest during the past couple of months is Paul Scott Mowrer's *Balkanized Europe* (E. P. Dutton and Co., pp. 349). The author spent eleven consecutive years in various European countries as special correspondent for the *Chicago Daily News*, and some of the material in his book has already appeared from time to time in that journal, but it is both valuable and interesting enough to warrant the appeal which the publishers make to a broader constituency. By "Balkanization" the author means the creation of a medley of small states, "economically weak, covetous, intriguing, afraid, a continual prey to the machinations of the great powers, and to the violent promptings of their own passions." This policy, which had its origin in the regions freed from Turkish oppression during the nineteenth century, has been extended, according to Mr. Mowrer's argument, over a considerably greater portion of Western Europe by the Peace of Versailles. With this thought as a guiding thread the author takes his readers through the complex maze of minor European politics in a series of concise and stimulating chapters. The concluding portion of the book discusses the policies of the great powers at the present time and explains what the writer believes to be the proper rôle of the United States in world politics. Both the method of presentation and the style are those of a journalist, but a capable journalist is usually a keen observer, as this volume amply proves.

Two recent books by Frederic C. Howe deal with rather dissimilar subjects. *Revolution and Democracy* (pp. 238) is published by B. W. Huebsch. It deals chiefly with the control of "privilege" over politics, the press and education, especially in the United States, but it also has a good deal to say about monopoly and the sabotage of industry,

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transportation and credit which results from monopoly. The government of the United States, in its present complicated and unresponsive form, is merely the agency of the exploiting classes (p. 103). Exploitation, as opposed to production, is the controlling motive of both the leading political parties in America (p. 123). The political state, in America as in old Europe, has become a private thing, used to protect private interests; it has little concern for human rights or for the promotion of the comfort, happiness or convenience of the people (p. 124). What America needs is a homeopathic dose compounded of the single tax, guild socialism and the Plumb plan, with a system of free credit "to enable those who possess no capital to secure capital." The other work, entitled *Denmark, A Coöperative Commonwealth* (pp. 203) is from the press of Harcourt, Brace and Howe. It endeavors to interpret for America the progress made by the Danish people in scientific agriculture, organized coöperation, politics and education, the whole forming what the author believes to be the most valuable political exhibit in the modern world, namely, a demonstration of the possibilities of democracy, industrial as well as political. After reading Mr. Howe's books one is inclined to believe that Shakespeare was wrong and Barnum was right. There is nothing rotten in the state of Denmark, and the great American public likes to be humbugged.

In making *A Defence of Liberty* (Putnams, pp. 251), the Hon. Oliver Brett argues that socialism would mean a dangerous reaction toward conservatism—a static state with unlimited power. This insistence on bureaucracy as the antithesis of liberty is not particularly new, but Mr. Brett makes his points interestingly and with occasional flashes. Thus, for example, he remarks that Rousseau is "the uneugenic parent of" the "intellectual sophistry," that "the old world has passed away under the stress of war, and that a new one is about to spring fully-armed from the brains of the Welsh wizard." Rousseau "loved to leave the sickly offspring of his brain on the doorstep of posterity, to be picked up and nursed, like cuckoos in the social nest, by the Karl Marxs and Lloyd Georges that came after him." With the exception of some suggested reforms of Parliament and the party system, Mr. Brett makes no constructive proposals. When one school of opinion says that society needs only a tonic, and another that a major operation is necessary, Mr. Brett offers a mouth wash. His mild liberalism may comfort the few remaining faithful, but it will not convert many sinners.

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The Principles of Politics by A. R. Lord (The Clarendon Press, pp. 308) is called "a textbook for junior students" of political theory. It is more elaborate than Sir Frederick Pollock's *Introduction*, which has so well served a whole generation of college students, yet much less so than the works of Sidgwick, Green and Bosanquet in the same general field. Professor Lord's outline begins with the Renaissance and ends with Burke. The few pages on Hamilton and Madison, thrown in for good measure, are not of much account. The greater portion of the book is not historical but analytical, successive chapters being devoted to such topics as sovereignty, democracy and representation, the notion of law, individualism, natural rights and political rights. These chapters are cogent and well-written; they would serve admirably as a basis for class-room discussion.

Arthur J. Balfour's *Essays Speculative and Political* (George H. Doran Co., pp. 241) cover a rather wide range. The initial essay on "Decadence" raises the question why civilizations wear out and great nations decay. The author finds that the explanations customarily given for the decline and fall of the Roman Empire do not fully explain the great collapse. Nor does he feel able to explain it himself. The concluding essays of the book, notably those on "Anglo-German Relations" and on "The Freedom of the Seas" are of permanent value and interest.

A very useful addition to the rapidly growing library on the international aspects of labor legislation is a collection of essays edited by E. John Solano under the title *Labour as an International Problem* (Macmillan, pp. lx, 345). The contributors are well known authorities on the subjects they discuss. They include G. N. Barnes, Arthur Fontaine, Émile Vandervelde, J. T. Shotwell, Albert Thomas, W. A. Appleton, and Sophy Sanger. The essays review the history of international labor legislation; the constitution, functions, procedure and policy of the International Labor Office and its work ending with the conventions and recommendations passed at the International Seamen's Conference held in Genoa, July, 1920, and international trade unionism. Appendices give the labor sections of the peace treaty and the resolutions adopted at the Berne (1906), Washington, and Genoa conferences.

Walter Rathenau's *Die neue Wirtschaft*, a book which has been commanding wide attention in Germany, is now issued in an English

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translation under the title *The New Society* (Harcourt, Brace and Howe, pp. 147). The author ranks as one of Germany's industrial leaders. During the war he served as controller of raw materials. Rathenau does not accept either restoration, democracy, socialism or communism as Germany's "way out," but himself propounds a program for the adjustment of industry and government. The book is full of sharp thrusts at the shams of the old régime and the hypocrisies of the new. Rathenau suggests, by the way, that Germany ought to prohibit the use of the word *Kultur* for thirty years to come. It has served no purpose in the past save to mask confusion of thought. The only possible future for Germany, according to Dr. Rathenau, lies in making herself what she thought she was but was not, a nation of men and women who think for themselves.

Vivid pen pictures of various notables, English, French and American, are included in Stephane Lauzanne's *Great Men and Great Days* (D. Appleton and Company, pp. 263). As editor of *Le Matin* the author has had rare opportunities for contact with most of the world-figures whose characteristics he delineates. The portrait of ex-President Wilson is one of the best in the book and indicates that the author knows how to hold the scales of equity in weighing the services of public men. Some incidents not commonly known are printed in this chapter, for example the substance of the interview given to several French newspaper correspondents at the White House on April 9, 1918 (pp. 88–90). M. Lauzanne writes of interesting things in a fascinating way.

The Senate of the United States, by Senator Henry Cabot Lodge (Charles Scribner's Sons, pp. 248), is the title of a volume which covers a range of matters from legislatures to libraries. An essay of thirty-one pages, reprinted from the *Political Quarterly*, where it appeared in 1914, deals with the American Senate, its history, functions and place in the government. The rest of the book, seven-eighths of it, has nothing to do with the Senate, either proximately or remotely, but spreads before its readers eight of Senator Lodge's addresses and essays, including his eulogies of Theodore Roosevelt and the pilgrims of Plymouth. All of them are excellent both in substance and style; they testify to the author's breadth of interest, his finished scholarship and his mastery of English prose.

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The story of a court that "aims to give justice to the public in labor disputes" is narrated by Governor Henry J. Allen in *The Party of the Third Part* (Harper and Brothers pp. 282). This book describes the events which led to the establishment of the Industrial Relations Court in Kansas, recounts the history of the coal strike, the receivership, the volunteer mining and the reaction in public sentiment which followed. The make-up and powers of the court are explained and the various phases of its work are discussed. There are several chapters on general questions connected with labor and the public's relation to industrial controversies. While written from the standpoint of a public official the book is notably fair and liberal in its general attitude. As an authoritative exposition of a significant American experiment it is of unusual value to students of state government.

Written as a text for college freshmen, Irwin Edman's *Human Traits and their Social Significance* (Houghton, Mifflin Co., pp. 467) endeavors "to give a bird's eye view of the processes of human nature, from man's simple inborn impulses and needs to the most complete fulfilment of these in the deliberate activities of religion, art, science and morals." Believing that the student's understanding of contemporary problems in government and economics can be "immensely clarified" by a knowledge of the human factors which they involve, the author analyzes the types of individual behavior and the great activities of the human mind with special emphasis on the social consequences of individual traits. The book should be very serviceable for use in a college course on social psychology.

An English translation of Dr. F. Müller-Lyer's *Phasen der Kultur* has been brought out by Alfred A. Knopf under the title *History of Social Development* (pp. 362). The chief value of the book is its serious attempt to treat sociology as an inductive study by distinguishing, describing and correlating the successive stages through which human societies have in fact evolved. The author works from sociological facts to phases of culture, and from the latter to lines of progress. In this way it aims to acquaint the reader with the results of what the author designates as a "new and glorious, although unfortunately still imperfect, science."

A monograph on *The Ratification of the Federal Constitution by the State of New York* by Clarence E. Miner has been issued as one of the

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recent volumes of Columbia University Studies in History, Economics and Public Law (Longmans, Green and Co., pp. 136). The author has done his work with great thoroughness and devotes attention not only to the proceedings of the Poughkeepsie convention but to the line-up of political parties preceding it.

Among recent publications of the Harvard University Press are Frederick J. Allen's *Guide to the Study of Occupations* (pp. 182), John H. Williams' *Argentine International Trade under Inconvertible Paper Money, 1880–1900* (pp. 282), and Julius Klein's *The Mesta, A Study in Spanish Economic History, 1273–1836* (pp. 444). The last-named monograph contains a narrative of Spain's long attempt to dominate the production and marketing of the world's wool supply.

President Thwing's *American Colleges and Universities in the Great War* (Macmillan Co., pp. 276) deals only incidentally with matters of government. In the main it is an account, comprehensive and well-written, of what American institutions of learning did to help win the war. A concluding chapter points out some of the enduring effects of the war upon methods of college education.

Professor E. L. Bogart's *War Costs and their Financing* (D. Appleton and Co., pp. 510) presents in broad outline but with adequate detail the salient features of war finance and explains the more important financial problems now confronting the chief countries of the world. The author shows how large a part the "silver bullets" played in determining the final outcome. The book admirably supplements Professor Bogart's earlier volume on the *Direct and Indirect Costs of the Great World War*.

A discussion of the distribution of wealth from some new points of view is contained in Hugh Dalton's *Inequalities of Incomes in Modern Communities* (George Routledge and Sons, pp. 357). The author examines the causes which have produced the marked inequalities of individual income, including the laws and customs relating to the disposal of property. He advocates the piling of additional taxes upon inherited wealth, but also urges that the improvement of our educational facilities will tend to reduce inequality. A criticism of the orthodox theories of distribution is included.

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The Russell Sage Foundation has issued a *Social Workers' Guide to the Serial Publications of Representative Social Agencies* (pp. 174). It lists the serial publications of approximately four thousand institutions and organizations. The Foundation has also published a small monograph on *The Social Case History*, by Ada Eliot Sheffield, and a summary of the findings of the Springfield Survey, under the title *Social Conditions in an American City* (pp. 439). The latter book is edited by Shelby M. Harrison and contains a chapter on "City and County Administration."

Messrs. Longmans, Green and Co. have published a brief *Introduction to Sociology* (pp. 304) by Professor J. J. Findlay of the University of Manchester. The book does not cover all the topics which are ordinarily found in a textbook of sociology but deals with the more important ones only.

The Century Co. has published a volume on *Sea Power in American History* (pp. 372) under the joint authorship of Herman F. Krafft and Walter B. Norris, both of whom are associate professors in the United States Naval Academy. The authors point out that although Admiral Mahan constantly discussed the influence of sea power upon American history, and even dealt exhaustively with some periods, he never incorporated his general conclusions in any single volume. The present writers have brought Mahan's ideas together; they have also added some good material of their own. Particularly valuable is their discussion of the merchant marine in its relation to sea power.

Messrs. Little, Brown and Co. are the publishers of Professor George Grafton Wilson's *First Year of the League of Nations* (pp. 94) in which the author sets forth, concisely and impartially the procedure and achievements of the league during the first twelve months of its existence. From the reports and proceedings of the Geneva meetings the author has winnowed the salient things and presents them in an interesting narrative. The full text of the covenant is printed as an appendix.

American Economic Life by Henry Reed Burch (Macmillan Co., pp. 533) is a presentation in problem form of the more important phases of American economic activities. It is intended for elementary students of economic science, particularly in secondary schools and appears to be well adapted to its purpose.

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The main argument of *Economic Democracy* by C. H. Douglas (Harcourt, Brace and Howe, pp. 144) is directed to the task of proving that democracy is not merely a matter of elective administration but of "distributed economic power." As for the League of Nations the author believes that its success would merely mean the culmination of the policy of centralized economic control.

Our Revolution by Victor S. Yarros (Richard G. Badger, pp. 251) contains a collection of essays in which the author seeks to interpret the social and political unrest.

The volume on *The Church and Labor* by the Rev. John A. Ryan and the Rev. Joseph Husslein (Macmillan Co., pp. 305) is the first of a series in which the endeavor will be made to present, adequately and authoritatively, the Catholic point of view towards the industrial, social and political problems of to-day. The book is made up, in large part, of encyclicals, pastoral letters and other deliverances of church authorities relating to the labor question. A list of "books by Catholic authors" on economic questions is appended.

Housing and the Public Health by Dr. John Robertson (Funk and Wagnalls Co., pp. 159) is a brief treatise by one who has dealt with his problem at first hand. The book relates to conditions in English cities only, but discusses the whole problem in a broad and interesting way.

A comprehensive study of community life and institutions is included in *America via the Neighborhood* by John Daniels (Harper and Brothers, pp. 463). There are excellent chapters on the organization and work of social settlements, likewise on the relation of immigrant colonies to political organization and government.

A volume on *Community Organization* by Joseph Kinmont Hart has been brought out by the Macmillan Company (pp. 230). It is the outgrowth, in large part, of the author's experience with the war camp community service.

The Next War by Will Irwin (E. P. Dutton & Co. pp. 161) is a loud warning against the "militarists, munition-makers and professional patriots," who are alleged to be already engaged in leading mankind into a new chasm of destruction. The author, who is a war corre-

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spondent of note, writes vividly of the miseries which the late war brought in its train and makes some definite proposals concerning the means by which, in his opinion, future wars may be avoided.

The Evolution of Sinn Fein (Huebsh, pp. 318) by R. M. Henry gives a resumé of the origin, spread and aims of this movement. The author indicates the various stages through which the Irish question has ultimately reached a critical stage.

The second series of lectures on the Bennett Foundation at Wesleyan University, delivered by Professor George M. Wrong of the University of Toronto, have been published by the Abingdon Press under the title *The United States and Canada* (pp. 191).

A textbook on *Civil Government for Indian Students*, by Professor James W. Garner of the University of Illinois and Hon. Sir William Morris, governor designate of Assam, has been published by S. C. Sanial (Calcutta). This includes several chapters on the general principles of government and brief accounts of the governments of the British Empire, the United States and British colonies, and deals more at length with the new government of India. Appendices give the text of the Government of India Act, 1919, the Bengal electoral rules, and the report of the joint committee of the British Parliament on the Government of India bill.

Two small volumes on *Currency Reform in India* and *Indian War Finance*, by Professor W. G. Kale of Fergusson College, Poona, India, have been published by the Aryabhusan Press.

Frances Kellor's volume on *Immigration and the Future* (George H. Doran Co., pp. 276) contains a survey of past immigration and a study of the sources from which the immigration of the future is likely to be drawn. There is a good chapter on the relation of immigration to business. A supplement to this work, by the same author and publisher, deals with *The Federal Administration and the Alien.*

The Newmarch Lectures for 1919 by Sir Josiah Stamp have been published as *The Fundamental Principles of Taxation* (Macmillan Company, pp. 201). The lectures deal with the general trend of recent developments in taxation and indicate the need for a restatement of principles.

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A revision of Robert H. Montgomery's *Income Tax Procedure* has been issued by the Ronald Press Co. (pp. 1206). The new addition contains the multitude of new rulings made during 1920 with the author's comments thereon, making a book which is indispensable to all who have much to do with income tax matters. The same publishers have issued a useful manual on the *Elements of Bond Investment* by A. M. Sakaloski (pp. 158), and a two-volume treatise on *Practical Bank Operation* by L. H. Laupton (pp. 713, paged consecutively).

Students of English economic history will welcome the succinct story of the enclosure movement which is set forth in W. H. R. Curtler's *Enclosure and Distribution of our Land* (Clarendon Press, pp. 334). It covers the subject in a broad way from the earliest times to the present day.

In his recent volume on *Spain's Declining Power in South America* (University of California Press, pp. 440) Professor Bernard Moses deals with the period from 1730 to 1806, following logically the author's earlier work on *The Spanish Dependencies in South America*. It will doubtless prove to be a book of equal interest and value to students of colonial administration.

The various addresses delivered at the Clark University Conference of 1920 have been printed, under the editorship of Professor George H. Blakeslee, in a volume entitled *Mexico and the Caribbean* (G. E. Stechert and Co. pp. 363). The addresses deal with every phase of Mexican-American relations as well as with conditions in Haiti, Santa Domingo and the Central American Republics.

A biography of the French war-premier *Le Véritable Clémenceau* by Ernest Judet has been issued by the press of Ferdinand Wyss, Berne (pp. 362). The study is reasonably impartial but with a tendency to betray the author's warm sympathies.

The Young Citizen's Own Book by Chelsea Curtis Fraser (Thomas Y. Crowell Co., pp. 309) is an elementary text book of civics which covers the ground, or most of it, in a simple and reasonably interesting way. Its selections of topics is better than that of most books in the same field.

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Sydney Herbert's *Nationality and its Problems* is published by Messrs. E. P. Dutton and Co. (pp. 173). The book deals with the nature of nationality and nation-making forces, with nationality and politics and with the future of nationality. The author keeps close to his topic and supports his argument with a wealth of historical illustrations.

The Yale University Press has published Lawrence H. Gipson's *Jared Ingersoll* (pp. 432). This study of American loyalism in relation to British colonial government was awarded the Porter prize at Yale in 1918. Dr. Gipson's volume throws a good deal of light upon certain aspects of the complex relationship existing between England and the American colonies during the later colonial period.

A small booklet on *Social Legislation in Illinois*, by Seba Eldridge, has been published by W. M. Shimmin and Co. (Rockford, Ill.).

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RECENT PUBLICATIONS OF POLITICAL INTEREST

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CLARENCE A. BERDAHL

AMERICAN GOVERNMENT AND PUBLIC LAW

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